939

SUPREME COURT OF THE UNITED STATES.

No. 128.

JAMES H. URE, CLAIMANT OF THE STEAMER GIPSEY, App't,

vs.

JAMES M. & CYRUS COFFMAN, OWNERS OF FLAT-BOAT AND CARGO.

APPEAL FROM CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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CIRCUIT COURT OF THE UNITED STATES,
Fifth Circuit and Eastern District of Louisiana:

JAMES M. & C. COFFMAN, Owners of Flat-boat and cargo,
vs.
STEAMER "GIPSEY," J. H. URE, Claimant. } No. 2481.

Pleas and proceedings before the Honorable the Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana, at the April Term of the said Court, held at the city of New Orleans, in the District aforesaid, on the 24th day of April, one thousand eight hundred and fifty-five.

Be it remembered, that heretofore, to wit, on the twenty-fourth day of April, A. D. 1855, came J. H. Ure, claimant of the steamer "Gipsey," by his proctors, Miles and H. H. Taylor, Esqr's, in the Clerk's office of the said Court, and filed a transcript of a record in the above entitled cause, from the District Court of the United States for the Eastern District of Louisiana, which transcript is in words and figures as follows, viz:

U. STATES DISTRICT COURT:

In Admiralty.

JAMES M. & C. COFFMAN
vs.
STEAMER GIPSEY, &c.

Libel. Filed Dec. 24th, 1853.

To the Honorable the Judge of the District Court of the United States for the Eastern District of Louisiana, in Admiralty sitting.

James M. Coffman and Cyrus Coffman exhibit this their libel against the steamer Gipsey (whereof was lately master), now in the Eastern District of Louisiana, and within the admiralty and maritime jurisdiction of this Honorable Court; her engine, machinery, tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein, in a cause of collision civil and maritime: And thereupon the said libellants allege and articulately propound as follows, viz:

1. That on the first day of November said libellants started a flat-boat, their property, laden with the following cargo, also their property, viz:

200 bbls. Flour,
900 " Apples,
300 " Potatoes,
40 " White Beans,
9 " Boiled Cider,

from Gallipolis, in the State of Ohio, in a trading voyage down the Ohio and Mississippi rivers, in charge of your libellants, James M. Coffman, and a competent and sufficient force.

2. That in the course of the voyage, a portion of the cargo was disposed of as follows, and at the following prices, viz:—

50 bbls. flour at $6 50 per bbl.	$325 00
500 bbls. apples at $2 50 per bbl.	1250 00
140 bbls. potatoes at $2 00 per bbl.	280 00
30 bbls. white beans at $4 00 per bbl.	120 00
	$1975 00

and had reached a point on the Mississippi River about 55 miles above the city of New Orleans, and opposite the St. James sugar refinery, with nineteen hundred dollars in cash on board, the proceeds of the sales aforesaid, the remainder of the cargo, and a watch, the property of your libellant, James M. Coffman, and two guns, the clothing of the crew of the flat, and the tackle, equipments and provisions for the voyage—at which point the said flat laid by for two days, moored to the bank of the river, in consequence of the roughness and inclemency of the weather, it being windy and unsafe for a flat-boat to venture out.

3. That while the said flat-boat lay moored at the bank of the river as aforesaid, being then tight, strong, staunch, and in good and sound condition, about 200 yards below a wood-yard opposite the St. James sugar refinery, aforesaid, about 55 miles above the city of New Orleans, and within the admiralty and maritime jurisdiction of this hon'ble Court, and entirely out of the proper course of a steamboat, whether ascending or descending—the said steamboat Gipsey, ascending the river, did, on the 22d of December, 1853, at about 8 o'clock A. M., ran into and sink the said flat-boat, moored at the bank and laden as aforesaid, causing a total loss of the said cash on board, the cargo, with the exception of 500 bbls. of different articles in a damaged condition, and the guns, watch, wearing apparel, provisions, and equipments aforesaid, the said flat sinking so rapidly and suddenly that the crew could scarce escape with their lives.

4. That at the time of the collision aforesaid, the said flat-boat was lying out of the proper course of a steamboat; that a fog prevailed at the time, and that the persons in charge of the said steamer had lost her reckoning; that they did not approach the bank for the purpose of landing, or for any other reasonable purpose, nor did they stop even after the collision, but immediately after the collision, without a moment's delay, or a single enquiry after the fate of the flat or its crew, passed on.

5. That the said steamer Gipsey did not on the occasion of said collision, ring her bells at proper intervals before collision, as libel-

lants advised it was the duty of the persons in charge of her to have done while navigating the river on a foggy night.

6. That the said collision caused a total loss of the flat, the cargo, with the exception of 500 bbls. of different articles of the cargo in a greatly damaged state and condition, money, guns, watch, equipments, and provisions, and all effects whatever on board of said flat; that the said collision was caused and is attributable entirely to the mismanagement, imprudence, and negligence and unskilfulness of the persons in charge of the steamer Gipsey, and that these libellants have been damaged to the amount of forty-five hundred and twenty-five dollars, with the exception of the 500 bbls. of the cargo saved in a damaged condition, as will appear by reference to the annexed schedule or statement marked A, and made part of this libel.

7. That all and singular to the premises are true and within the admiralty and maritime jurisprudence of this hon'ble Court.

Wherefore libellants pray that process in due form of law, according to the practice of Courts of Admiralty, may issue against the said steamboat Gipsey, her tackle, apparel, and furniture; that this hon'ble Court will pronounce for the damages affixed and condemn the said steamboat to be sold for the payment thereof, and for costs and general equitable relief.

BENJAMIN, MICOU & FINNEY,
Proctors for Libellants.

James M. Coffman being duly sworn, declared that the allegation of the foregoing libel are true and correct.

(Signed) J. M. COFFMAN.

Sworn and subscribed at New Orleans this 24th Dec., 1853, before

(Signed) R. M. LUSHER.

A.

Statement of loss sustained by James M. Coffman and Cyrus Coffman, by the sinking of their flat-boat and cargo, in consequence of being run into by the steamer Gipsey, on the 22d of December, 1853.

Cash	1,900 00
Watch, two guns, clothing, tackle, and equipments	150 00
Flat-boat	85 00
Cargo unsold	2,300 00

Cr.

By proceeds of 500 bbls. of cargo taken out of the river in a damaged state, not yet ascertained.

(Endorsed) U. S. Dist. Ct., 6903. Annexed to libel and filed Dec. 24th, 1853.

(Signed) ROBT. M. LUSHER,
D'y Clerk.

U. STATES DISTRICT COURT:

In Admiralty.

J. M. & C. COFFMAN
vs.
STEAMBOAT GIPSEY.

Dec. 24th, '53.

Marshal's Return. Ad'y Warrant.

The President of the United States of America to the Marshal of the Eastern District of Louisiana, or to his lawful Deputy, greeting:—

You are hereby commanded, forthwith to seize, and into your possession take, the steamboat "Gipsey," her tackle, apparel, and furniture now libelled by James M. and Cyrus Coffman, owners of a certain flat-boat and cargo, &c., valued at $4,525 00, and alleged to have been run into and sunk by said st'r "Gipsey," on the 22d December, 1853, in a cause of damage from collision, civil maritime, in the District Court of the United States for the Eastern District of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a District Court of the United States for the District aforesaid, to be holden at the city of New Orleans on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said steamboat "Gipsey," her tackle, apparel, &c., should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant, that you make return according to law.

Witness the Honorable Theo. H. McCaleb, Judge of the [SEAL.] said Court, this twenty-fourth day of December, 1853, and the 78th year of the Independence of the United States.

(Signed) N. R. JENNINGS,
Clerk.

by ROBT. M. LUSHER,
D'y Clerk.

J. M. & C. COFFMAN
vs.
STEAMBOAT "GIPSEY."

Marshal's Return.

Dec'ber 24th, '53.

Received December 24th, 1853, at noon, and thereupon seized and

took into my custody the steamer "Gipsey," her tackle, apparel, and furniture, as herein commanded, serving at the same time a copy of the written warrant and of the libel on Captain Jas. H. Ure, master of said boat; and on the afternoon of the same day, on receiving from Jas. H. Ure, the claimant of said boat, a bond with good and solvent security in the sum of $9,050, conditioned to abide the decree in this case, I discharged the said boat from custody, and do now return this warrant, together with the aforesaid bond, into Court, December 24th, 1853.

(Signed) J. M. KENNEDY,
U. S. Marshal.

by EMILE MARY,
D'y Marshal.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

No. 6,903. *Bond of* $9,050 00. *Dec'b'r 24th*, 1854.

Know all men by these presents, that we, James Hamilton Ure, of New Orleans, claimant and sole *bona fide* owner of the steamboat "Gipsey," her tackle, apparel, and furniture, as principal, and Samuel Locke and Robert Splain, also of New Orleans, as sureties, are held and firmly bound unto James M. Coffman and Cyrus Coffman, owners of a certain flat-boat, libellants, in the sum of nine thousand and fifty dollars, lawful money of the United States, for the payment whereof to the said libellants, their heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly, by these presents.

Witness our respective names and seals hereunto affixed by us at New Orleans, this twenty-fourth day of December, A. D. 1853.

Whereas, an Admiralty Warrant was lately issued out of the Honorable the District Court of the United States for the Eastern District of Louisiana, at the suit of the said James M. & Cyrus Coffman *vs.* the said Steamboat "Gipsey," her tackle, apparel, and furniture, and numbered 6,903 on the docket of the said Court, commanding the Marshal to seize and take into his possession the said st'r "Gipsey," which has been seized accordingly, but has been released from said seizure, and delivered to Jas. Hamilton Ure, the claimant and owner thereof, the said Jas. Hamilton Ure having at the time and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said steamboat "Gipsey," &c., in the Clerk's office of the said Court, and which claim is now of record.

Now the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the Court, and pay the said libellants the amount awarded by the final decree rendered in the Court to which the process is re-

turnable, or in any appellate Court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

(Signed)

JAMES HAMILTON URE. [L. S.]
SAMUEL LOCKE. [L. S.]
ROBERT SPLAIN. [L. S.]

Signed, sealed, and delivered in the presence of

EMILE MARY,
D'y Marshal.

U. S. DIST. C'T,
East'n Dist. of Louisiana:

In Admiralty.

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY." } No. 6,903.

Claim.

Now comes into Court in the above cause Jas. Hamilton Ure, and on oath represents: That the sole, true, and *bona fide* owner of said steamboat "Gipsey," her tackle, apparel, and furniture, seized and in the custody of the Marshal under the process sued out in the above cause, is himself deponent, and that no other person is interested in the ownership thereof.

(Signed) JAMES HAMILTON URE.

Sworn to and subscribed at New Orleans this 24th Dec., 1853, before

(Signed) ROBERT M. LUSHER,
D'y Clk.

U. STATES DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY." } No. 5.

Answer of James H. Ure. Filed Jan. 11th, 1854.

The answer of James H. Ure, owner and claimant of the steamboat Gipsey, to the libel of James M. Coffman and Cyrus Coffman against the said steamboat.

And now comes James H. Ure, of the city and parish of New Orleans, owner of the steamboat "Gipsey," and now and hereafter at all times reserving to himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in said libel, for answer to the said

libel of James M. Coffman and Cyrus Coffman against the said steamboat, doth allege and propound as follows, to wit:

First. That the said James H. Ure is the true and *bona fide* owner of the said steamboat Gipsey, and that no other person is the owner thereof.

Second. That he has no knowledge, information or belief as to what was the cargo of the said flat-boat mentioned in said libel, and pretended to be set forth in the first article of the said libel, or that the said flat-boat was in chage of the said libellants or of a competent or sufficient , and requires strict proof of each and every allegation contained in the said first article of the said libel.

Third. That he has no knowledge, information, or belief as to whether the said flat-boat started, or from Galliapolis and had reached a point on the Mississippi River about fifty-five miles above the city of New Orleans; and that he has no knowledge, information, or belief as to whether any portion of the cargo of said flat-boat (if any cargo there was at any time on board of the same), was disposed of by the said libellants, or their pretended voyage down, or as to whether the sum of nineteen hundred dollars in cash or any other sum of money was on board of said flat-boat at such point, or whether any cargo, or a watch, or two guns, or any other property of any kind or description whatever was on board of said flat-boat at said point, or as to whether the said flat-boat was moved to the bank of the River in consequence of the roughness and inclemency of the weather, or because it was windy and unsafe for a flat-boat to venture out, as pretended to be set forth in the second article of the said libel, and requires strict proof of each and every allegation contained in the said second article of the said libel.

Fourth. And this respondent doth further allege and propound that it is not true that the said flat-boat was lying moored to the bank of the said Mississippi river, 200 yards below the wood-yard opposite the St. James Sugar Refinery, entirely out of the proper course of steamboats, as in the third article of said libel is untruly alleged and pleaded; for the truth and fact was and is, and the respondent doth allege and propound, that the said flat-boat was lying moored to *moored to* the bank of the said river, at a distance of only 50 feet below the said wood-yard, or a pile of wood therein, in the way of steamboats taking wood at the said wood-yard, and in the way of steamboats landing freights or passengers at ordinary and usual landing of Mad. Trudeau, the owner of the plantation on which the said wood-yard was situated; that there was no light on the said flat-boat, and that there was no watchman or watch kept on board of the same on said night; that the bank of the said river at the said point, where the said flat-boat was lying moored, was steep, and the height of the same above the water of the river was about 18 feet, and cast a shadow extending some distance from the shore on to the water of said river; that there was a light on the bank of the said river, in the said wood-yard, and

above a pile of wood in said yard (which said light was made by a few billets of wood placed on the ground above said pile of wood); and that said flat-boat, whilst lying moored at the said point, was in the shadow made by the said bank of said river upon the water of the same, and was also out of the light of said fire in said wood-yard, so that it could not be seen or described at a distance from any portion of a steamboat navigating the river. And this respondent doth further allege and propound, that it is not true that the said steamboat Gipsey ran into the said flat-boat at about 3 o'clock A. M. on the 22d of Dec. 1853, as in the said third article of said libel is untruly alleged and pleaded; for the truth and fact was and is, and the respondent doth allege and propound, that the said Gipsey ran into said flat-boat at minutes after 10 o'clock A. M. on the said 22d Dec. 1853, or thereabouts. And this respondent doth further allege and propound, that it is not true that the sinking of the said flat-boat caused a total loss of the cash, cargo, guns, watch, &c. (if any such were on board of the said flat-boat), at the time it sank, as in the third article of said libel is untruly alleged and pleaded; for the truth and fact was and is, as he is informed and verily believes, that the said flat-boat did not sink to the bottom of the river and disappear under the water, but remained afloat; and that the contents of the same were removed and taken from the said flat-boat; and that the different parts of the said flat-boat to its very bottom were removed from the water and placed on the bank of the said river at said point.

Fifth. And this respondent doth further allege and propound, that it is not true that the said flat-boat was lying out of the proper course of steamboats; that a fog prevailed at the time; that the persons in charge of the said steamboat did not approach the said bank for the purpose of landing, as in the third article of said libel is untruly alleged and pleaded; for the truth and fact was and is, the respondent doth allege and propound, that the said flat-boat was lying in the way of steamboats intending to take wood at said wood-yard, or to land freight or passengers at the landing on said plantation of Mad. Trudeau; and he doth further allege and propound, that the said steamboat Gipsey was and is employed as a "coast packet," carrying freight and passengers from *from* the city of New Orleans and landing the same at any or all of the different plantations along the banks of the said Mississippi river, and landing on the said plantations to take freight and passengers from any or all of the plantations, to be transported to the said city of New Orleans, o. to other points on the said banks of said river; that at the time *the time* the said flat-boat was run into, though the night was rainy and smoky and there was at times a little fog, it was light enough, he is informed and verily believes, and doth so allege and propound, for the coast packets to run and make their landings in the usual manner; that the said steamboat Gipsey was running and making her landings for putting out freight and passengers at the

different plantations on the "coast" on both sides of the said river as usual; that the said Gipsey, after having landed at the plantation of S. B. Amant, on the opposite side of said river from said flat-boat, and a little below where it was lying, crossed the river to the bank under which the said flat-boat was lying, for the purpose of making a landing on that side of the river; and that he is informed, and believes, the persons in charge of the said steamboat Gipsey had not lost their reckoning.

Sixth. And this respondent doth further allege and propound, that he is informed, and verily believes, that it is not true that the night was foggy at the time the said flat-boat was run into, so as to make it necessary or proper for the bell of the said steamboat Gipsey to be rung in consequence of the fog, as in the fifth article of said libel is untruly alleged and pleaded; for the truth was and is, and the respondent doth allege and propound, that there was not fog enough to prevent objects on the banks of the river, on either side, from being distinctly visible, or to prevent steamboats or other crafts floating on the water and having the lights required by law from being seen at such distances as to render navigation on said river perfectly safe.

Seventh. And this respondent doth further allege and propound, that it is not true that the running into and collision with said flat-boat was caused and is attributable to the mismanagement, imprudence, negligence, or unskilfulness of the persons in charge of the said steamboat Gipsey, as in the sixth article of said libel is untruly alleged and pleaded; for the truth was and is, and respondent doth allege and propound, that the said running into and collision with said flat-boat was caused and is attributable to the mismanagement, imprudence, and negligence of the persons in charge of the said flat-boat, in mooring the same to the bank of the said river where steamboats are constantly in the habit of making landings and lying by night, so moored without any light on board the same to mark and show its existence and position, and without any watch being kept by any person or persons on board, or any watchman thereon to hail and give notice to steamboats or other vessels navigating the river when they approached the bank, and also to the mismanagement, imprudence, and negligence of the persons in charge of said flat-boat, in mooring the same in the shade of the bank of said river, in the immediate vicinity of a wood-yard in such a position that the light kept at said wood-yard did not shine on said flat-boat, but had the effect of deepening the natural shade of the bank in such a manner that it was impossible for the persons keeping a lookout on the said steamboat Gipsey to see the same until they were almost in contact with it, and it was impossible to avoid a collision with it. And this respondent doth further allege and propound, that he is informed and verily believes, that there was no mismanagement, imprudence, negligence, or unskilfulness on the part of the persons in charge of the said steam-

boat Gipsey at the time said collision took place and said flat-boat was run into; that at the time there was light enough to enable her to run and make her landings; that the persons in charge of said steamboat were watchful and constantly on the lookout; that owing to the said flat-boat being without any light, and put out of the light at said wood-yard, and in the natural shadow made by said bank of said river, and heightened as aforesaid by said fire at said wood-yard, and without any person on watch on the same to hail steamboats or other vessels approaching said bank, it was impossible to see or descry the same, or to know of its existence at the bank in time to prevent a collision; that the instant the said flat-boat was discernible she was seen and the engines of the said steamboat were backed and everything done to prevent said collision which was possible.

Eight. And this respondent doth further allege and propound, that all and singular the premises are true.

Wherefore respondent prays that this Honorable Court will pronounce against the demand of the libellants in their libel aforesaid mentioned, and set forth and condemn them to pay respondent his costs.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Proctors for Respondent.

James H. Ure, the before named respondent, being duly sworn, declares and says that the allegations contained in the foregoing answer are true.

(Signed) JAMES H. URE.

Sworn to, subscribed this 11th January, 1854, before
(Signed) ROBERT M. LUSHER,
U. S. C'rt.

UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

In Admiralty. No. 6,903.

May Term, 1854. Stated Sessions. Thursday, May 18th, 1854, the Court met at 10 A. M., present Hon. Theo. McCaleb.

JAS. M. & CYRUS COFFMAN
vs.
The STEAMBOAT "GIPSEY." } Hearing and submission.

This cause came regularly up for hearing, E. A. Bradford, Esq., appearing for the libellants, and Miles Taylor, Esq., for the claimant and respondent.

The pleadings having been read to the Court, the following depositions were offered in evidence and read.

For the libellants: 1st. That of S. C. O. Byrne; and 2d, that of Henry Morton.

For the claimant: 1st. Those of Alex. Desarpes, Thomas M. Ure,

and Jno. W. Cook. 2d. That of Nelson Galabert (of Lafourche). 3d. Those of P. Trudeau and W. Chapman (of St. James). 4th. Those of Jos. G. Landry and M. Elfert: and 5th. a memorandum of E. Dalferis relating to his deposition, recently taken but not yet filed: (right to present and file said deposition reserved.)

The argument of the cause was then opened by the proctor for the libellants, continued by Miles Taylor for the claimants, and closed by E. A. Bradford, Esq., for the libellants, when the Court took the whole matter under advisement.

United States District Court in Admiralty.

JAMES M. & C. COFFMAN
vs.
STEAMER "GIPSEY." } Evidence for Lib'ts.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, City of New Orleans:

Be it remembered that on the 31st day of Decem., A. D. 1853, before me, William Cornelius, a Commissioner of the United States in and for the Eastern District of Louisiana, personally appeared S. C. O. Byrne, a person of sound mind and lawful age, a witness for the libellants in a civil suit now depending in the District Court of the United States in and for the Eastern District of Louisiana, wherein James M. Coffman and Cyrus Coffman are libellants, and the steamer Gipsey is libelled, and James H. Ure is claimant, and appeared also before me Commissioner John Finney, representing Benjamin Micou and Finney as proctors for libellants, H. H. Taylor, Esq., as proctors for the claimant, and the said proctors did agree and consent that I, the said Commissioner, should there and then proceed to take the deposition of said witness to be read in evidence on the trial of said case. Whereupon the said S. C. O. Byrne being by me first carefully examined and cautioned and sworn to testify the truth, the whole truth and nothing but the truth, did pronounce and say as follows:—

1st Deposition. S. C. O. Byrne.

My name is S. C. O. Byrne, my residence in Gallia county, State of Ohio. I was twenty-one years old on 26th December, 1853. Witness was on a flat-boat belonging to libellants, which was sunk by a steamboat at a point in the Mississippi River opposite to St. James' Sugar Refinery, and about 55 miles above the city of New Orleans; witness was one of the hands on said flat-boat; the said flat-boat was built at Clipper Mills, about 4 miles below Galliopolis, in the State of Ohio, and was loaded partly above Galliopolis and partly below and partly at Gallipolis *Galliopolis;* a pilot by the name of Noah Hinder, Richard Burnett, Nathan Centres, Henry Morton, and Mr. James M. Coffman, now present, and witness, constituted the crew

of said flat-boat; all of said crew, except witness, J. M. Coffman and Henry Morton, now present, left said boat at Vicksburg; witness was on said flat-boat when her cargo was taken in, and assisted in receiving and stowing it in said flat-boat: potatoes about 300 barrels, 200 barrels flour, 900 barrels of apples, about 40 barrels of white beans, 9 barrels boiled cider, constituted the cargo of said flat-boat; a portion of the cargo had been sold before the boat sank; Mr. Coffman had commenced selling out the cargo at Vicksburg, and continued to make sales at different points until he reached the place of collision; he sold probably 50 barrels of flour; witness knows that he sold in the neighborhood of that number; he, witness, assisted in putting said flour out; he sold the flour at the price of $6\frac{50}{100}$ per barrel; he sold about 500 barrels of apples at the price of two dollars and a half per barrel; he sold about 140 barrels of potatoes at the price of two dollars per barrel; he sold about 30 barrels of white beans at five dollars per barrel; he did not sell any of the cider; the remainder of the cargo was on board when the boat sunk; about $1,900 in money was on board of said flat-boat when she sunk; it consisted of 160 dollars in gold, 40 dollars in silver, and the balance in Bank bills, principally of Louisiana Bank; I know the amount of the money and of the kinds of which it consisted, from the fact that Mr. Coffman counted it out in my presence, placed it in a sack in my presence, and put it under the head of the bed on which we all three slept; this, witness states, occurred the evening before the said collision, say about three o'clock of said evening; the flat-boat was on the left side of the river coming down when the collision occurred; the flat-boat was fastened to the bank about 150 yards below the wood-yard (Treaudeau); the collision occurred between 12 and 3 o'clock at night; the watch on board went down and was recorded 3 or 4 days afterwards; there is a point projecting out about a quarter to half a mile below where the collision occurred and on the same side of the river; there was a nook in the bank in which the flat-boat was lying; it was a foggy night; about an hour after the collision a steamboat layed by at the wood-yard in consequence of the fog; it was the steamboat Gipsey that sunk the said flat-boat; was asleep when the collision occurred; the flat-boat was struck about 8 or 10 feet from the stern and sunk in about a minute after the steamboat Gipsey backed out; witness was awakened by the noise; witness and the other persons in the flat got off without any other clothes than what they had on; the master, Mr. Coffman, had great difficulty in saving himself; he got fastened in the boat, and witness and Mr. Morton had to pull him out; the witness states that said collision and sinking occurred on Wednesday, the 21st of December, 1853; the steamboat backed square out after the collision; she was backing out when witness got up; the steamboat did not land at Trudeau's woodyard; she did not stop at or near the place of collision that night; she did not ring her bell; she proceeded up the river straight away out of

sight; she did not stop to afford any assistance or to make any enquiry after the flat or its crew, until coming down on her downward trip; after the getting out of Mr. Coffman of the boat, we took a skiff and went out to the steamboat to read her name; she had just turned round and was headed up the river; witness read her name and they then came back to the flat, and got out witness's trunk and some barrels out of the river and fastened up the hole made in the flat by the steamer so that nothing more of the freight could get out; they then went up to the fire at the wood-yard; witness states that the side gunwale was broken and 10 or 15 feet of it disappeared entirely; the stern gunwale was torn loose all but the tenant that was mortised into the opposite gunwale to the one that was struck; about 20 feet of the siding was torn off and disappeared; the boat first sank to the edge of the roof, and then to her ridge pole; from the bow, a considerable distance back, it was sunk half way up the ridge pole—that is, the water line was about the middle of the ridge pole; the boat was pretty much all under water, the centre of the roof was out of water; the cargo was all under water, except where the steamboat struck her there were some barrels floating in the water; the flat-boat lay with her bow at the bank and her stern pretty much along by the bank; and further, that the bow lay a little below the upper end of the nook, and the stern about straight down the river; the stern was about 10 yards distant from the bank in the nook; the lower part of the nook was considerably further out than the stern of the flat-boat, so that the flat lay between the upper and lower corners of the nook, and was in that way under shelter; we went to work on Thursday morning—that is, the three persons in the flat-boat, three hired negroes and 2 white men hired, making 8 in all, worked at the flat in saving the cargo all day Thursday; we took out what we could and put it in part on the bank and in part on the Mary Foley; the next day witness, Mr. Morton, and two negroes worked in the same way in securing the cargo; Mr. Coffman came down to New Orleans on Thursday evening on board the Mary Foley with that portion of the cargo saved on Thursday; on Saturday we worked with the same force as on Friday until near night; we saved a good pile of the cargo; witness did not take an account of it, he says 5 or 600 barrels of one thing or another; we got out all the freight except when the barrels were broken, bursted, or mashed; all the barrels of beans were bursted; about 20 or 26 barrels of apples witness supposed were bursted; the heads of some of the flour barrels were knocked out; the potato barrels, all that were bursted, the potatoes were laying loose in the bottom of the boat; a good many potatoes were in the bottom of the boat; witness says that some of the cider was saved, but does not know whether all was saved or not; witness states that they searched for the money, but did not find it; the straw bed under which the money had been placed floated out; that straw bed laid on some boards which were placed in a frame

or rack made for that purpose, the boards also floated out; witness saw one or two of the boards; the bed was very near the place where the steamboat struck the flat; it was so near where the steamboat struck the flat, it was so near that when he raised up in bed he poked his head out of the roof where the steamboat had parted it, and struck the hull of the steamboat with his hand; there were two guns on board, one belonging to the master and the other to Mr. Morton; we did not find the guns; one of the guns was a rifle and the other a musket; the rifle was worth about $20, does not know what the musket was worth; we saved such portions of our clothes as were in trunks; witness lost 2 shirts and 1 pair of drawers; does not know what the others lost; we lost our provisions and cooking utensils, except a few articles saved, of which witness has a list in a book; we also lost a bed-quilt; witness states that they had 2 skillets, 1 oven (a cast iron oven), and lid, one cast iron pot, three tin pans, 6 tin cups, 6 knives and forks, 6 spoons (iron), 1 tea kettle, 1 coffee boiler, 1 quart tin cup, 1 funnel, 2 wooden buckets, 1 coffee mill, 1 axe, 1 hatchet, 1 handsaw, 6 pot hooks, an iron crane or hanger, 5 oar pins, 4 washers, 3 bands, 1 anchor (weighing 102 lbs.), 1 stern line, about 100 feet long, 1 check line, 2 middlings and one shoulder of meat, about 12 lbs. sugar, 1 gal. molasses, about ¾ of a barrel of flour, ½ a barrel of beans, 6 or 8 or 10 lbs. of coffee, block and tackle, ¾ in. shieve, 1 mattress, 4 quilts and 1 blanket, 1 pillow, 1 umbrella, 1 tin horn, and many other similar articles used in a flat-boat, that witness cannot remember or enumerate; the flat-boat was 85 feet long and 18 feet wide; she was a good flat-boat, tight, strong, and staunch; she would be worth 85 or 90 dollars according to the way flat-boats are now selling; I suppose it would take $150 to furnish a flat-boat (starting from Galliopolis to New Orleans, with the necessary accom. tackle, cooking utensils, &c.; the said flat-boat belonged to J. M. Coffman, and all the cargo.

Cross-Examination.

James M. Coffman was on board said flat-boat from Galiopolis all the way down; Mr. Coffman received on the flat-boat a portion of the cargo, and witness received the other portion; Mr. Coffman attended to the sales on the way down; the hole made in the flat-boat by the collision was fastened up in less than half an hour, so as to prevent the articles from floating out; some flour and some apples floated out previous to the fastening of the hole; all the rest of the cargo was taken out in a more or less damaged state, except such things as had gotten of the barrels; the opening caused by the collision was about 20 feet in the upper part of the boat, but not so much in the lower part; all the freight taken out of the flat-boat was sent down on the Mary Foley at different times; I was sitting within a few feet of the Capt. at the time the money was counted, in the evening before the collision, and saw the amount counted

out; J. M. Coffman, Henry Morton, and witness was on board the flat-boat at the time of the collision; the check line was saved; the block and tackle was saved, the bake oven, 2 skillets, and some other articles, and the anchor were saved.

(Signed) S. C. BYRNE.

Sworn to and subscribed before me at the city of New Orleans this 31st day of December, 1853.

(Signed) WILLIAM CORNELIUS,
U. S. Com'r in and for the East. District of Louisiana.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, ss:
CITY OF NEW ORLEANS.

I, William Cornelius, a Commissioner duly appointed on the 18th day of May, 1853, by the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, under and by virtue of the act of Congress entitled "An Act for the more convenient taking of Affidavits and Bail in Civil Causes depending in the Courts of the United States, passed February 20th, 1812, and the act of Congress entitled "An Act for the more convenient taking of Affidavits and Bail in Civil Causes depending in the Courts of the United States, passed March, the 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed September the 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is that the parties consented to the taking of the same as it is set forth in the caption or preamble to said deposition.

I further certify that notice was made out and served on the claimant and adverse party, to be present at the taking of the deposition, and put interrogatories if he should think fit. And I do further certify that the said claimant, James H. Ure, by his proctor, H. H. Taylor, did attend the taking of said deposition, did on behalf of said claimant consent to the taking of the same, and did put interrogatories to said witness.

And I do further certify that on this 31st day of December, in the year of our Lord one thousand eight hundred and fifty-three, the said deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness he subscribed the *reduced to writing in the presence of the witness, and after carefully reading the same to the witness he subscribed the* same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and delivering to the Clerk of the Court for which the same is taken.

I further certify that I am not of counsel or attorney to either of the party to the suit in the deposition and caption named, or in any

way interested in the event of the said civil cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, at the city of New Orleans, this 31st day of January, 1853.

(Signed) W. CORNELIUS,
U. S. Comm'r E. District Louisiana.

Evidence for Lib'ts.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, City of New Orleans, ss:

Be it remembered, that on this second day of January, in the year of our Lord one thousand eight hundred and fifty-four, before me, William H. Hunt, a Commissioner duly appointed by the Circuit Court of the United States in and for the Fifth Circuit and Eastern District of Louisiana, under and by virtue of the Acts of Congress entitled, "An Act for the more convenient taking of Affidavits and Bail in Civil Causes depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress entitled An Act in addition to an Act entitled "An Act for the more convenient taking of Affidavits and Bail in Civil Causes depending in the Courts of the United States," passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared Henry Morton, a person of sound mind and lawful age, witness for the libellants in a civil suit now depending in the District Court of the United States in and for the Eastern District of Louisiana, wherein James M. and Cyrus Coffman are libellants, and the steamer Gipsey is defendant, and the said Henry Morton being by me first carefully examined and cautioned to testify the truth and nothing but the truth, did depose and say as follows:—

(*2d Deposition for Libellant.*)

U. STATES DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Deposition of Henry Morton, filed May 16th, '54.

Henry Morton, sworn for libellants, deposes: I was on board of a flat-boat belonging to the libellants, on the night of the 21st Dec., 1853, when the boat was sunk. The flat-boat started at Galiopolis, Ohio. Her cargo, when she started, was flour, and apples, and potatoes, and beans, and cider. The quantity of flour was 200 barrels; I cannot tell the quantity of apples, of my own knowledge, but when we started, the captain stated the quantity 900 barrels (this evidence

objected to as hearsay by proctor for claimants, and the objection is here noted); I do not know the quantity of potatoes, but I helped to take in 200 barrels. 300 barrels were represented by the captain as on board, when we started; I do not know the quantity of beans; I did not take them aboard. There were 9 barrels of cider on the boat; I helped to take it aboard. James M. Coffman, S. C. O. Burns, Richard Barnett, Nathan Centers, Noah Kinders and myself were on the boat; at the time she was sunk three were on the boat, Coffman, Burns and myself. The others had left the flat at Vicksburg and started for home. Mr. Coffman had sold a portion of the cargo before the boat was sunk. He commenced selling at Vicksburg and sold on at different points down to the place of collision. He sold flour, but what number of barrels I do not know; I helped to take it out, but kept no account of the number of barrels. What he sold he got $6 50 for. He sold apples, but I don't know exactly what number of barrels. He sold potatoes; I don't know how many, I kept no account. Some beans were sold; I don't know the quantity. I don't know anything about the amount of money on board at the time of collision received from the sales of the articles, but I was cooking when I heard Coffman and Burns say how they had, and when they were counting it out. They were counting it out in the evening of the collision. They said there was $1,900. It was put in a sack and put under a straw bed between the bed and a board; the boards were put there to hold the bed.

The flat was tied up at a bank, about opposite the St. James Sugar Refinery, and on this side the river. It was near a wood-yard, about 150 yards from the place where the boats are in the habit of landing, and below. There was a kind of a nook in the bank caused by the caving of the bank, and in that nook was lying.

It was on Wednesday, the night of the 21st Dec'br, that the collision occurred. I was asleep. It was between 12 and 3 o'clock, I reckon; but I had no watch; the watch on board was lost. It was the Gipsey that ran into us. I went out with Burns in a skiff to read her name. She struck us right close to the stern, close to where we were sleeping. She got into us, broke the gunnel in two, and tore the stern loose on one side. I should judge about 20 feet of the siding was knocked out. The boat sank and filled with water over a part of the roof all the way, up to the ridge-pole. It was not a minute, I should say, after the boat backed out from us, that we sank; the captain escaped narrowly; the water got in rapidly and was up to my knees as I came out. As I was turning to catch the captain my foot slipped and I got in up to my hips. The captain was in bed at the time of the collision. The captain was J. M. Coffman, one of the libellants. After we got out from the boat, and had gone out and read the name of the Gipsey, we saved some *some* barrels, that had floated out of the hole in the flat that had been made by the steamer. We stopped the hole by boards placed across it, so as to prevent more barrels from floating out.

This was about a ½ hour after the collision. The steamboat backed out from us as near square as a body could say. My bed was near the place where the steamer came in, and on the same side. It was about 8 or 10 feet from the stern where the steamboat struck, and the bed was between the place where the steamboat struck and the stern. It was a foggy night. There was a steamboat that lay by that night; this was about an hour afterwards. The boat came up and lay by at the wood-yard. The apples sold previous to the collision were sold at $2 50 per barrel. The beans were sold at $5, what beans I saw sold. The potatoes were sold at $2 00. None of the cider was sold. The cider was good. I drank some of it out of a barrel that was taken out at home before we started. The Gipsey did not land at the wood-yard or the place of collision, and she rang no bell that I heard. She did not stop to make any inquiries, but went straight on. On her downward trip she did stop to make inquiries about us.

The day after the collision, we three on the boat, Burns, the captain and myself, went to work with two negroes and three white men to save the cargo. That was Thursday; that force worked all that day. On Thursday evening the captain started for the city with what had been saved that day, on the Mary Foley. On Friday Burns and myself and two negroes and one white man worked. The white man worked only till about 10 o'clock. I did not count the barrels we got out the second day. On Saturday Burns and myself and two negroes worked, till about 5 o'clock. We searched for the money that had been under the bed. We did not find it. We found the straw bed, which had floated about half-way out of the hole made by the collision; it had floated up from its place. We found two of the boards on which the bed had lain. One of them was in the boat and the other was out. We found the straw bed, as stated before, on the morning after the collision. The first we tried was to find the money the next morning after the collision. I saw the money when they were counting it; it was paper, and silver, and gold; I cannot say in what proportion, as I was busy cooking at the time.

The flat-boat was 85 feet long, 18 feet wide. She was as full of barrels when we started as she could be got. You could not get a half dozen more barrels in her. She must have been more than half full at the time of the collision. We lost two guns, cooking utensils, clothing, and equipments, not all of them, but a portion. I sold the boat and cooking utensils at auction. I cried it and Burns kept the account.

(Claimants' proctor reserves his objections to such portions of this testimony as may be hearsay.) The boat brought $15 25. Every barrel that had anything in it was got out of her. The boat was strong and tight before the collision, and she and her cargo in good order.

(Signed) HENRY MORTON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to at New Orleans, this 2d day of January, A. D. 1854, before me. (Signed) WILLIAM H. HUNT,
U. S. Comm'r.

UNITED STATES OF AMERICA,
Fifth Circuit and East. Dist. of Louisiana, City of New Orleans, ss:

I, William H. Hunt, Commissioner, duly appointed as aforesaid, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the witness resides out of the city of New Orleans, and is about to depart therefrom to a greater distance than 100 miles therefrom, the place of trial of the cause for and in which said deposition was taking and is necessary. I further certify that due notification was made out and served on the claimants or adverse party, their attorney to be present at the taking of the deposition, and to put interrogatories if he or they should think fit, and that notification of the time and place of taking the said deposition was made out and served on said attorney. I further certify that on this 2d day of January, A. D. 1854, I was attended by John Finney, Esq., proctor for libell'ts, and H. H. Taylor, Esq., proctor for claimants, and by the witness, who was of sound mind and of lawful age, and the said witness was by me carefully examined and cautioned, and sworn to testify the whole truth, and the deposition herein before appearing, was by me reduced writing, in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing and forwarding the same with my own hand, to the Court for which the same was taken.

I further certify, that I am not of counsel or attorney to either of the parties in said deposition and caption named, or in any way interested in the event of the said civil cause named in the caption. In testimony whereof I have hereunto set my hand and seal at New Orleans, this 2d day of January, A. D. one thousand eight hundred and fifty-four.

[L. S.] (Signed) WILLIAM H. HUNT,
U. States Comm'r in and for the East. Dist. of Louisiana.

Commissioner's fee $8 00, paid by libell'ts.

Notice to attorney for def't $1. Service $1. Deposition, folios $8.

(*Evidence for Claimants.*)

U. S. District Court in Admiralty.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, City of New Orleans, ss:

Be it remembered that on this twenty-first day of January, in

the year of our Lord one thousand eight hundred and fifty-four, before me, Robert M. Lusher, a Commissioner, duly appointed on the 29th day of April, 1848, by the Circuit Court of the United States in and for the Fifth Circuit and Eastern District of Louisiana, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20th, 1812, and the act of Congress entitled An act in addition to an act entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared Alex. Désarpes, Thomas M. Ure, and Jas. W. Cook, persons of sound mind and lawful age, witnesses for the claimants and respondents in a civil suit, now depending in District Court of the United States in and for the Eastern District of Louisiana, wherein James M. & Cyrus Coffman are libellants, and the owners of the steamboat "Gipsey" are respondents, and the said above named witnesses being by me first carefully examined and cautioned and sworn to testify the truth and the whole truth and nothing but the truth, did depose and say, in presence of Miles Taylor, Esq. for claimants and respondents, and of John Finney, Esq. for libell'ts, what their respective depositions hereinafter show—pages 1-2 inclusive.

U. STATES DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Alex. Désarpes, for Claimant.

Deposition filed May 16th, 1854.

Alex. Désarpes, a witness for the claimants, being duly sworn, deposed as follows:

I am pilot of the steamboat "Gipsey," and was on her on her voyage up the river on the night of the 21st-22d Dec. 1853. I do know of a collision that night between her and a flat-boat; it took place above the point at Trudeau's wood-yard, about 56 miles above this city, on the left side of the river descending. It took place between 12 and one o'clock or thereabouts; I was on watch at the time at the wheel, and acting as pilot. It was a pretty bad night—rainy, dark, and smoky rather than foggy—with a little fog. There was light enough, however, for the boat to distinguish landings that night, and she ran and made all her landings of freight and passengers as she went up. The Gipsey is a river packet, running from New Orleans to Lobdell's Store Landing, and is in the habit

of landing freight and passengers at all intermediate points and plantations. Her last landing before the collision was one of freight at J. B. Armant's plantation, on the right-hand side of the river descending, and about half a mile below Trudeau's wood-yard. We crossed the river from there to go to Geo. Mather's plantation; at that time the night was dark and rainy, but the shore could be seen for some distance. There was a light at Trudeau's wood-yard up on the bank, which is pretty high there, at least 15 feet, may be home above the water. I could see this light a long distance, three or four arpents from the shore. There is a point just below the wood-yard. I *was* looking out when the boat was approaching the shore for the purpose of going up that shore to make a landing. I could see an outline of the shore or bank all along, and distinctly too; I did not discover the flat-boat until we were right up against her. The flat-boat was lying close to the bank, and in the shadow of the bank, and having no light on her, I could not see her; she was lying fast at the foot of the wood-yard; the light was a good distance from the flat-boat up on the bank, and did not shine on the flat-boat. As soon as we saw the flat-boat we stopped the engine of the Gipsey and backed. If there had been a light on the flat-boat I could have seen it at a sufficient distance to have avoided the collision, but there was no light on her. As the flat-boat was low down in the water, if there had been a light on her, we should have known it was on something down in the water; I saw nobody on watch on the flat-boat at the time of collision, and heard no hail from her before the collision.

I have been a pilot on the river about ten years, running in this lower trade. At the time of and before the collision the weather was such as boats are in the habit of running in and making landings, and I, as a pilot, consider that it was safe and proper to run the boat.

Mather's landing, where the Gipsey was going to land, was about a quarter of a mile above Trudeau's wood-yard; I don't know the exact distance; other packets were running that night, among others the "Laurel Hill" and the "Empress," and the former was frequently in sight of the "Gipsey;" both the Laurel Hill and the Empress ran well that night.

Cross-Examined by John Finney.

I am on the "Gipsey" now; we were against the flat-float when I saw her; I had time, however, before the Gipsey struck the flat-boat, to ring the bell to stop the engine and the bell to back her, and the engine was stopped and the boat backed before she struck the flat. The bow of the Gipsey near the stern struck her, but I don't think that the stern itself struck her; the starboard side of the bow struck the flat; I can't say that the stern cut into the flat after the bow struck her; I could'nt see whether it did or not.

We struck the side of the flat-boat, I can't say at what distance from either end. The "Gipsey" the flat-boat at an angle about thus:

(See original, page 43.)

the float-boat was lying at the bank, tied to a point, and her stern lay a little out from the bank; she laid up and down the river in the same direction with the current; there are curvings in along that bank; the flat was lying at a point there fastened, and there were cavings both above and below that point, which was a mere petting out of the bank in consequence of cavings above and below it.

We made a landing Mather's plantation that night, above Trudeau's wood-yard, for the purpose of landing either freight or passengers, I can't remember which; I am a regularly licensed pilot.

Direct resumed. On a clear starlight night, in such a stage of water as prevailed at the time of the accident, we could see a flat-boat at a good distance—in time to prevent an accident; if there had been on the flat-boat such a light as is generally carried on deck by a steamboat or a schooner or on flat-boats when they are running, I could have seen it three or four arpents off, and this would have given me time to avoid the collision.

his
ALEX. + DESARPES.
mark.

(Signed) ROBERT M. LUSHER,
U. S. C.

Thomas M. Ure's Deposition, filed May 16th, 1854, for Claim't.

Thomas M. Ure, a witness for the claimants (objections to his competency on the ground of interest being reserved), being duly sworn, deposes as follows:—

I was in charge of the "Gipsey" on the night when the collision occurred, as her master; I was on watch at the time on the hurricane roof as far forward as I could be; I had been there an hour or an hour and a half all the time before the accident; the last landing that we had made was at Armant's plantation; I was on the roof in front all the time, from when we made this landing, up to the moment of collision; from Armant's we ran the bend of the river, on the same side at short distance, and then crossed over for the purpose of making a landing at Geo. Mather's, a little distance above Trudeau's wood-yard; there was a light above the wood-pile at Trudeau's, but I saw nothing but its glare before the collision, the wood-pile being between the light and my eyes; I could see this glare some *some* 3 to 5 minutes before the collision took place.

We had almost hit the flat-boat when I saw it; I was looking out

and saw the bank, seeing its outline pretty clearly about the same time that I saw the glare of the light spoken of; it was the shadow of the bank, which is high there, which prevented me from seeing the flat-boat sooner; I know of nothing else that prevented me from seeing; if there had been on the flat-boat any such light as flat-boats usually carry I think I could have seen it in time to avoid hitting her, further off than I could see the glare already spoken of; as we approached the boat I heard no hail from her.

Cross-examined. I am still captain of the "Gipsey;" we landed at Mather's to put out freight, what freight I don't know; the night was slightly foggy and bad, and it had been raining; I cannot recollect whether it was raining at the time of the collision; there was no fog until we came to Armant's, and after we left Armant's the fog came on, and I think that smoke was mixed with the fog; we did not lay up that night for fog, but ran all night; we did not land at Trudeau's wood-yard; Mather's is not a long distance above the wood-yard; the forward end of the Gipsey, some part of the bow pretty far forward, struck the flat-boat; the position of the flat on the bank, and the manner in which the Gipsey struck her, is about as follows: I desire to be understood as speaking doubtfully about the course of the river and of the boat "Gipsey" as here marked down.

The line A B represents the course of the Gipsey, as near as I know, and the crooked line is intended to represent the nook in the bank where the flat-boat lay.

(See original, page 46.)

Direct resumed. There was not a great deal of fog after we left Armant's; it was not a heavy fog—would blow off occasionally; sometimes we could see the bank, sometimes not so plainly; the fog began to appear at about the time we were at Armant's; I had not noticed it before; the Collier was running that night, just behind us, at the time of the collision; so was the "Empress," and so was the "Laurel Hill" running that night; the Collier, I think, is a Memphis packet; the "Empress," I believe is an up country boat; the Collier passed up above us, after the collision.

Cross resumed. The Gipsey makes two trips a week between New Orleans and Lobdell's store.

(Signed) THOS. M. URE.

(Signed) ROB'T M. LUSHER,
U. S. C.

James W. Cook's Deposition for Claim't filed.

James W. Cook being duly sworn (for the claimants) deposes: I was on the "Gipsey," as freight or 2d clerk, when the collision herein occurred, on watch at the time, out on the boiler deck when we struck the flat-boat; I had just got there, was in the office when

I heard the bell ring violently to reverse the engines; when I got out on the boiler-deck the Gipsey was about ten feet from the flat-boat; I suppose that the flat-boat was about 200 feet from the fire at the wood-yard; the light was about 200 feet from the edge of the bank where the flat-boat lay, which bank was fifteen feet above the top of the flat-boat, so that the flat was in the shadow of the bank; the light shining from above increased the difficulty of seeing the flat-boat; it was more difficult to see a flat-boat in that situation than if there had been no light on the bank; I remember the character of the night at the time of the collision; if the flat-boat had had a good lantern-light aboard I could have seen it 200 yards off; if we could have seen it fifty feet off, we could have avoided the collision; there were two passengers up at the time; one of them had gone out just before me and was standing on the outside guard just in front of the wheelhouse; who this was I can't remember; one of these passengers is named Landry and the other Gallibert, of Thibodeauxville; we had a landing to make at Geo. Mather's, about 600 yards above the flat-boat, to land freight.

We ran all that night and made our landings as usual; it was light enough for us to distinguish the landings and make them.

Cross-examined. I am still a clerk on the "Gipsey;" we did land at Mather's; there had been some heavy showers of rain, and mist ensued; I don't think it was fog; there was a shower of rain after we left Armant's, and as we crossed the river, and as it subsided it left a mist.

(Signed) J. W. COOK.

(Signed) ROBERT M. LUSHER,
U. S. C.

UNITED STATES OF AMERICA,
Fifth Circuit and East. Dist. of Louisiana, ss.

CITY OF NEW ORLEANS.

I, Robert M. Lusher, Commissioner, duly appointed as aforesaid, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, that the witnesses were brought before me for examination by the party respondent, the libellants, by their proctor, being present and concurring. I further certify, that on this 21st day of January, A. D. 1854, I was attended by Miles Taylor, Esq., proctor for respondents, and John Finney, Esq., for libellants, and by witnesses Alex. Désarpes, Thomas M. Ure, and James W. Cook, who are of sound mind and lawful age; and the said witnesses were by me carefully examined, and cautioned, and sworn to testify the whole truth, and the depositions herein appearing were by me reduced to writing, in the presence of the witnesses, and after carefully reading the same to the witnesses, they subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing and forward-

ing the same with my own hand to the Court for which the same was taken.

I further certify, that I am not counsel or attorney to either of the parties, in said deposition and caption named, or in any way interested in the event of the said civil cause named in the caption.

In testimony whereof, I have hereunto set my hand and seal, at New Orleans, this 21st day of January, A. D. one thousand eight hundred and fifty-four.

[L. S.] (Signed) ROB'T M. LUSHER,
U. S. Commissioner in and for East. Dist. of La.

Commissioner's fee $5 30, paid by claimant April 8th.
3 Depositions and Certif., 25 folios, @ 20c. $5 00
Swearing witnesses, 30—$5 30.

April 8th claimant also paid $2 for notices and for service $300 for notices of 23d March for 25th when the witnesses failed to come at the hour.

(Signed) ROB'T M. LUSHER,
U. S. C.

(*Evidence of Claim't.*)

DISTRICT COURT OF THE UNITED STATES
holding sessions in and for the Eastern District of Louisiana:

To any Judge or Justice of the Peace in the Parish of Lafourche Interior, La.

Commission.

Know ye, that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Gulabert, a witness residing in said Parish, and to whom the accompanying interrogatories and cross-interrogatories are to be addressed, and him duly examine on oath touching and concerning certain matters and things in a case now depending in the said Court, wherein Jas. M. & Cyrus Coffman are libellants, and the owner of the steamboat "Gipsey" libelled, is respondent; and the same examinations so taken and reduced to writing you certify under your hand and seal and send inclosed to this Court, without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Honorable Theo. H. McCaleb, Judge of the District Court of the United States, at the city of New Orleans, this twenty-second day of March, Anno Domini 1854, and seventy-eight year of the Independence of the United States of America.

(Signed) N. R. JENNINGS,
Clerk.

by ROB'T M. LUSHER,
D. Clerk.

IN UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY." } No. 6903.

Interrogatories to be propounded on the part of Jas. H. Ure, owner of the steamboat "Gipsey," and defendant in the case, to Gulabert, residing in the Parish of Lafourche Interior.

First. Were you, or were you not, a passenger on the steamboat "Gipsey" on her upward voyage from the city of New Orleans on the night of the 21st–22d December last (1853) when the said steamboat came in collision with a flat-boat lying at the bank of the Mississippi river some distance above the city of New Orleans? If you were a passenger, state the hour when said steamboat left New Orleans, and the time and place where the said collision took place.

Second. Were you, or were you not, "up" when said collision occurred, and before? If so, then state if you were out of the cabin and on any part of said steamboat from which you could look out, before said collision and up to the time it occurred. If you were "up" and out on any part of said boat, then state where you were standing when the said collision took place, and how long you were or were not looking out before the said steamboat in the direction it was going.

Third. If you were looking out before and up to the time of said collision, then state, 1st. What was the state of the weather? Could you see the outline of the shore or bank of the river at some distance, or could you not? 2d. Could you, or could you not, see a light on the top of the bank of the river at a wood-yard near which said collision took place? and if you could, then state at what distance you could see it, and for what length of time before reaching it. And 3d. Was there, or was there not, any light on the flat-boat with which the said steamboat came in collision, at the time of, or before, the said collision? And was there, or was there not, any person on watch on board of said flat-boat? If you say there was neither watch kept nor light exposed on said flat-boat, then state if there could have been either without your perceiving the same and knowing it.

Fourth. If there was a light on the top of the bank of the river at said wood-yard, then state if the said flat-boat was lying so that said light shone out, or if the flat-boat lay in the shadow made by the said light shining over the bank of said river.

Fifth. How far below the said wood-yard was the said flat-boat lying?

Sixth. If there had been a light exposed on the said flat-boat before and up to the time of said collision, could it have been seen at a sufficient distance to have enabled steamboats navigating the river and intending to land at the wood-yard aforesaid to avoid it?

Seventh. Were the officers of the steamboat "Gipsey" at their stations and looking out diligently in order to make the course of said steamboat a safe one, before and up to the time of said collision? Did the said steamboat make her proper landings for putting out freight and passengers before and after said collision in the usual way, and with the usual expedition and safety? And did, or did not other steamboats run on said night, both before and after the said collision?

Eighth. If the said officers of said steamboat were on the lookout before and up to the time of said collision, then state if they saw or could see the said flat-boat in time to stop the boat or change its course before striking said flat-boat. And if you say they did not and could not see it in time, then say how you know what you state.

Ninth. Did, or did not, the pilot order the engines to be backed the instant he descried the said flat-boat? and were not the said engines "backed" at once?

Tenth. Were you, or were you not looking out in front of the said steamboat before and up to the time of said collision? If yea, then say when and how far off you saw said flat-boat before said collision. If you did not see it until just before the collision, then say why you did not or could not see it. State distinctly the reason.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Proctors for Defendant.

IN UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY." } No. 6903.

Cross-Interrogatories to be answered by Gulabert, residing in the Parish of Lafourche Interior, witness for respondent.

First. Where do you reside, what is your occupation or profession?

Second. If you say anything about a light being at a wood-yard, just above the place of collision, was said light immediately on the bank of the river or some distance from the bank; and if so, how far from the bank of the river?

Third. With regard to the inquiry made of you in the fourth interrogatory, please state whether or not you mean that the light prevented you from seeing the flat. If yea, explain how.

Fourth. On which side, and at what part of the boat were you standing just before the collision, and at the moment of the collision; on which side and at what part of the boat were you standing at the

time you first saw the flat; describe particularly; was it not foggy at the time of collision?

(Signed) BENJAMIN MICOU & FINNEY,
for Libellants.

The foregoing is a true copy of the original interrogatories and cross-interrogatories prepared and filed by the respective proctors and referred to me, Commission of this date, to March 22d, 1854.

Parish Lafourche Interior, La.

(Signed) ROB'T M. LUSHER,
D'y Clerk of the U. S. District Court.

U. States District Court, in Admiralty.

JAMES M. & C. COFFMAN
vs.
STEAMER GIPSEY.

THE STATE OF LOUISIANA,
Parish of Lafourche:

Be it remembered that by virtue of the annexed Commissioner from the Honorable the United States Court of the city of New Orleans, in a certain case now pending before the said Court, wherein Jas. M. and Cyrus Coffman are plaintiffs, and Steamboat Gipsey is defendant, No. 6903, I, Valmont D. Terrebonne, Justice of the Peace of the Parish of Lafourche and town of Thibodeau, duly commissioned and sworn, as such caused to come before me on the 30th day of March, A. D. 1854, *Mr. Nelson Galabert*, of lawful age, residing in the said Parish of Lafourche, State of Louisiana, witness on the part of defendant in the above entitled case, and the said witness being by me first duly sworn on the Holy Evangelists of Almighty God to speak the truth to the questions propounded to him in the said cause, did depose and say to wit:—

1st Interrogatory. I was a passenger on the steamboat Gipsey on the night of the 21 to 22d of December, 1853; the steamboat Gipsey left New Orleans on the 21st, at about five o'clock in the evening; the collision between the steamboat Gipsey and a flat-boat took place at about one or two o'clock; after twelve; not knowing the river I cannot state the place.

2d Int'y. I was upon the boiler deck on the st'rb'd side when the collision occurred, and was there before it occurred; I cannot state how long I have been there, but I have been up all night.

3d Int'y. I was looking out before the collision took place; the night was dark; I could see the shore or bank at a little distance; I do not remember of having seen any light on the top of the bank of the river at the wood-yard, but should any been there it could be seen at a sufficient distance as to be able to stop the boat; I did not see any light on the flat-boat; if there had been either light or watch

on board of said flat-boat, and that my intention would have been to that effect at the time, I should see it.

4th Int'y. I do not remember of having seen any lights.

5th Int'y. I cannot say how far from the wood-yard the said flat-boat was laying.

6th Int'y. If there had been a light on said flat-boat or at the wood-yard before and up to the time of said collision, it could have been seen at a sufficient distance by the officers of the steamboat as to enable them to avoid it.

7th Int'y. I cannot state whether or not all the officers of the steamboat Gipsey were at their stations at the time of the collision; the captain was on the boiler deck before and at the time of said collision, *the captain was on the boiler deck before and at the time of said collision;* the said steamboat made her proper landings for putting on freights and passengers, before and after said collision, in the usual way, and with the usual expedition and safety; several other steamboats run on said night before and after the said collision.

8th. My answer to this interrogatory will be found in my answer to the six interrogation.

9th. I do not remember.

10th. I was looking out in front of said steamboat before and up to the time of said collision; I saw the flat-boat at a little distance before the collision, but the steamboat was too close to avoid it.

1st Cross-Int'y. I reside in the town of Thibodeauxville, Parish of Lafourche; my occupation is that of a marchan.

2d Cross-Int'y. I do not remember of having seen any light.

3d Cross-Int'y. Not having seen any light I have no answer to make.

4th Cross-Int'y. I was standing on the starboard of the boiler deck forward, it was dark and little mucky at the time of the collision.

(Signed) NELSON GALABERT.

Sworn to and subscribed before me at my office in the town of Thibodeaux this 30th day of March, 1854.

(Signed) V. D. TERREBONNE,
J. P.

I do hereby certify that my fees and the other costs in the execution of within Commission amout to six and $\frac{75}{100}$.

$6 75. (Signed) V. D. TERREBONNE.

(*Evidence for Claim't.*)

DISTRICT COURT OF THE UNITED STATES,
holding Sessions at New Orleans in and for the Eastern District of Louisiana:

To any Judge or Justice of the Peace in the *Parish St. James, La.*

Know ye that reposing special trust and confidence in your integrity and ability, we hereby authorize you and require you that you call and cause to come before you Trudeau and Chapman, residents of said Parish, witnesses named in the accompanying interrogatories and cross-interrogatories, and them duly examine on oath touching and concerning certain matters and things in a case now depending in the said Court, wherein James M. and Cyrus Coffman are libellants, and the owners of the steamboat "Gipsey" libelled, is respondents, and the same examinations so taken and reduced to writing you certify under your hand and seal, and send inclosed to this Court without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Honorable Theo. H. McCaleb, Judge of the District Court of the United States, at the city of New Orleans, this twenty-second day of March, A. Domino 1854, and the seventy-eighth year of the Independence of the U. States of America.

(Signed) N. R. JENNINGS,
Clerk.

by ROBT. M. LUSHER,
D'y Clerk.

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY. } 6903.

IN THE UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

Interrogatories to be propounded on the part of Jas. H. Ure, owner of the steamboat "Gipsey" and defendant in the case No. Trudeau and Chapman, residing in the Parish of St. James, witnesses, whose answers thereto are to be read in evidence on the trial of the cause.

First. Do you or do you not know anything in relation to the situation of the flat-boat of James M. and Cyrus Coffman, which was run into by the steamboat "Gipsey" on the night of the 21st–22d Dec. 1853, before and after she was run into?

Second. Was there or was there not a wood-yard kept near the place where said flat-boat was run into? if yes, state by whom it is kept, and if steamboats are in the habit of landing there in the night to take wood, and if the place is one where steamboats land freights for the plantation on which the said wood-yard is situated.

Third. How far from said wood-yard did said flat-boat lie at the time of said collision, and was it below or above?

Fourth. Was there a light kept up and maintained at said wood-yard on said night, before and at the time of the collision; if yes, how was it situated; was it on the top of the bank or elsewhere; and if on the top, how far from the edge of the bank?

Fifth. What is the height of the bank of the said river above the water of the said river at said wood-yard?

Sixth. Did or did not the said flat-boat lie so that the light from said wood-yard shore on it, and made it visible? or did said flat-boat lie so that it was masked from said light by the bank and was in the shadow made by it in the water?

Seventh. Did or did not said flat-boat sink after said collision, to the bottom of the river? If not, how far? Was or was not said flat-boat kept attached to the bank after said collision? And if yes, then say if the contents of said boat were removed after the collision, and if yes, state when and by whom.

Eight. Did or did not the owners of the said flat-boat, or some one for them, keep by it until everything was taken out of it, and all its parts were placed on the bank at said wood-yard?

Ninth. Was there or was there not any light exhibited on said flat-boat, and kept up for the purpose of making her existence and position known on said night before, and up to the time when said collision took place; and was there or was there not a "watch" kept by some one of its crew on said night, before and up to the time of said collision, to warn and give notice to vessels and steamboats navigating the river, of said flat boat's existence and position?

Tenth. If you know any fact in relation to the existence or non-existence of any light or watch on said flat-boat before or at the time of said collision, the knowledge of which is derived from said Jas. M. and Cyrus Coffman, state it.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Proctors for Defendant.

IN U. STATES DISTRICT COURT,
Eastern District of Louisiana.

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY. } 6903.

Cross-Interrogatories to Trudeau and Chapman:

First. What is your occupation or profession; are you or are you not interested in the wood-yard near which the flat-boat was lying?

Second. Was the "Gipsey" in the habit of wooding at the wood-yard of Mr. Trudeau?

Third. Was not the flat-boat lying with her bow at a point and the body and stern of the flat lying in a nook and sheltered by it?

Fourth. Was it not foggy at the time of the collision? Is it not to your knowledge that some steamboats lay by that night on account of the fog? if yes, name the boats.

(Signed) BENJAMIN MICOU & FINNEY,
for Libellants.

The foregoing is a true copy of the original interrogatories and cross-interrogatories prepared and filed by the said respective proctors, and referred to in commission over my hand and the seal of the Court addressed to

Parish of St. James, La.

(Signed) ROBT. M. LUSHER,
Dt. Clerk.

March 22d, 1854.

U. STATES DISTRICT COURT:

In Admiralty.

JAMES M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY."

Deposition of Louis Trudeau, May 16th, 1854, for Claimant.

STATE OF LOUISIANA, PARISH OF ST. JAMES.

Be it known that on the 28 day of March, A. D. 1854, I, N. S. Landry, a Justice of the Peace in and for the parish aforesaid, by virtue of the hereto annexed commission to me directed by the Honorable District Court of the United States in and for the Eastern District of Louisiana, caused the following named witness in said commission to appear before me to answer the interrogatories annexed to said commission, viz:

Mr. Louis Trudeau, witness, being first duly sworn on the Holy Bible, to answer the truth, the whole truth, and nothing but the truth, to the questions annexed to the aforesaid commission, deposes as follows, to wit:

To the 1st interrogatory he answers—It is to my knowledge that the steamboat "Gipsey" has run the flat-boat of Jas. M. & Cyrus Coffman, in the month of December, 1853. The bow of the flat-boat was on a small point and the balance of the boat was in a nook. After the flat was run into she came nearer to the bank.

To the 2d interrogatory he answers—There was a wood-yard near the place where the Gipsey run into the flat, the wood-yard is kept by myself, and steamboats are in the habit of landing there in the night to take wood. Steamboats are not in the habit of putting out the freight of the plantation at that landing.

To the 3d interrogatory he answers—The flat-boat lied at about sixteen yards from and below the wood-yard.

To the 4th interrogatory he answers—There was a light kept at and maintained at said wood-yard before and at the time of the collision; the fire was on the bank; that in front of it the bank went in a

To the 5th interrogatory he answers—It is from fifty to eighteen feet high.

To the 6th interrogatory he answers—I do not think that the light would show on the flat to make it seen.

To the 7th interrogatory he answers—Said flat did not sink to the bottom of the river; cannot tell how far said boat did sink, but it was not out of sight; the flat did not get loose during the collision; she was attached to the bank as previous; the contents of the boat was removed by the hands of the boat, and also by negroes they had engaged.

To the 8th interrogatory he answers—Two of the crew staid at the boat until all its contents were taken out, after which they have pull on the shore the flat.

To the 9th interrogatory he answers—I have seen no light on the flat previous and after the collision.

To the 10th interrogatory he answers—I do not know anything else.

Cross-Examination.

To the 1st interrogatory he answers—I keep the wood-yard; I am interested in it as much that it belongs to my mother.

To the 2d interrogatory he answers—Never before.

To the 3d interrogatory he answers—The flat-boat laid with her bow at a point and the body and stern of the boat was laying in a nook.

To the 4th interrogatory he answers—It was little foggy; have not seen no boat lay by that night.

(Signed) L. TRUDEAU.

Sworn to and subscribed before me this 28th of March, 1854.

(Signed) LANDRY, N. S.,
Justice of the Peace.

(*Deposition.*)

Mr. William Chapman, witness, being first duly sworn on the Holy Bible to answer the truth, the whole truth, and nothing but the truth to the questions annexed to the aforesaid commission, deposes as follows, to wit:

To the 1st interrogatory he answers—Mr. Trudeau has informed me that the Gipsey had run into a flat-boat.

To the 2d interrogatory he answers—To the place where the steamboat Gipsey struck the flat there was a wood-yard.

To the 3d interrogatory he answers—From stepping over the distance, I judge that the flat was at about fifty feet below the wood-yard.

To the 4th interrogatory he answers—Do not know anything about this.

To the 5th interrogatory he answers—I have not measured, but the water being very low, that there must have been about eighteen feet.

To the 6th interrogatory he answers—I have seen the place where the fire was built, and from what I could judge, it would be impossible that the fire would make the flat visible, for, as above stated, it must been masked by the bank.

To the 7th interrogatory he answers—I have heard from Mr. Trudeau that the contents of the boat had been taken out by some of the hands. When I saw the boat she had been pulled, or a part of her, on the bank; I have even seen the bricks of her chimney.

To the eight he answers: As I have stated in the above interrogatory.

To the 9th interrogatory he answers: I do not know anything relatively to that interrogatory.

To the 10th interrogatory he answers: I do not know anything relatively to that interrogatory.

Cross.

1st Interrogatory he answers: I am engineer; I am not interested in the wood-yard near which the flat-boat was struck.

2d Interrogatory he answers: I do not know.

3d Interrogatory he answers: I do not know.

4th Interrogatory he answers: I do not know.

(Signed) W. CHAPMAN.

Sworn to and subscribed before me, this 28th March, 1854.

(Signed) LANDRY, N. S.,
Justice of the Peace.

I hereby certify that the above to be the true and Court answers of the witness named in the emission to the interrogatories annexed thereto.

(Signed) LANDRY, N. S.,
J. of the Peace.

Parish, March 28th, 1854.

(*Evidence for Claim't.*)

U. S. District Court, in Admiralty.

U. S. OF AMERICA,
Eastern District of Louisiana, City of New Orleans, ss:

Be it remembered, that on this eighth day of April, in the year of our Lord one thousand eight hundred and fifty-four, before me, Rob't M. Lusher, a Commissioner duly appointed on the 29th day of April, 1848, by the Circuit Court of the United States in and for the Fifth Circuit and Eastern District of Louisiana, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed March 1st, 1817; and the act entitled "An act to establish the Judicial Courts of the United States," passed September 24th, 1789, personally appeared Jos. Gust. Landry and Marcelin Elfert, persons of sound mind and lawful age, witnesses for the claimant in a civil suit now depending in the District Court of the United States in and for the Eastern District of Louisiana, the United States, wherein Jas. M. & Cyrus Coffman are libellants and the owner of st'r "Gipsey" is claimant, and the said witnesses being by me first carefully examined, and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, did *truth, did* depose and say as hereinafter set forth in pages of my manuscript.

U. S. DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Jos. Gust. Landry's Deposition for Claim't. Filed.

Jos. Gust. Landry (a witness for claimant) having been duly sworn and examined, deposes:

On the night of the 22d of Dec. last, I was master of the "Laurel Hill," a regular packet in the N. O. and Bayou Sara trade. About that time, on the night of the 21st–22d, or when the accident herein occurred, we were ascending the river. We left New Orleans on Wednesday evening at 5 o'clock. I was on watch till 1½ or 2 A. M. next morning. It was fair running weather; we did not lay up, but ran all the way up steadily, regular steam up. I recollect that

we had a little fog or smoke that night, but nothing to prevent us from running, up to the time I retired. We made our trip in the usual time.

No cross-examination, Mr. Finney waiving it.

(Signed) J. G. LANDRY.

(Signed) ROB'T M. LUSHER,
U. S. Com'r.

Marcelin Elfert's Deposition for Claim't. Filed.

Marcelin Elfert (also a witness for claimant, having been duly sworn and examined) deposes:

I was on the "Laurel Hill" on the trip spoken of above by Captain Landry; was pilot of her; I came on watch at 1 o'clock A. M.; the weather was very fair at that hour, and up to 2, till when we had on full steam. At 2½ o'clock there was a little fog. We ran all night; made our usual stops and our usual time.

We passed the Gipsey just below the College point at about 2 o'clock; this was the first time that we had seen her.

There was not much fog and smoke, and 2½ o'clock and till morning, nothing to prevent us from distinguishing and making our usual landings. After half-past two o'clock we did not run with full steam, but sometimes slowly, sometimes faster, as the smoke or fog rose off the river. We made our usual time.

The Laurel Hill carries passengers and freight, and makes landings at all the points along the coast. When I say that we made our usual landings, I mean we could distinguish all the plantations and points where we had to stop or put freight out. The Gipsey is engaged in same business as the Laurel Hill. All the packets are in the habit of taking passengers and freight for any point along the coast and landing them where required.

The point where the Laurel Hill passed the Gipsey, as above stated, is Madam Victoria Romain's place, which is a mile and a half above Trudeau's wood-yard.

No cross-examination by Mr. Finney, present.

(Signed) MARCELIN ELFERT.

(Signed) ROB'T M. LUSHER,
U. S. Com'r.

U. S. OF AMERICA,
Fifth Circuit and Eastern Dist. of Louisiana, City of New Orleans, ss:

I, Rob't M. Lusher, Commissioner, duly appointed as aforesaid, do hereby certify, that the reason for taking the foregoing depositions is, and the fact is, that the witnesses are engaged in precarious

and life-endangering pursuits on the Mississippi river (as shown by their testimony), and the parties, by their proctors, mutually consented to the taking thereof. I further certify, that on this eight day of April, A. D. 1854, I was attended by Miles Taylor, Esq., for claimant, and by John Finney, Esq., for libellants, and by the witnesses Jos. Gust. Landry and Marcelin Elfert, who are of sound mind and lawful age; and the said witnesses were by me carefully examined, and cautioned, and sworn to testify the whole truth, and the depositions herein before appearing were by me reduced to writing in the presence of the witnesses, and after carefully reading the same to the witnesses, they subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing, and forwarding the same with my own hand to the Court for which the same was taken. I further certify, that I am not counsel or attorney to either of the parties in said deposition and caption named, or in any way interested in the event of the said civil causes named in the caption.

In testimony whereof, I have hereunto set my hand and seal at New Orleans this 8th day of April, A. D. one thousand eight hundred and fifty-four.

[L. S.] (Signed) ROBT. M. LUSHER,
U. S. Com'r in and for the East. Dist. of Louisiana.

Commissioner's fee $, paid by
Oaths administering 2 @ 10, 20.
Depositions, six folios @ 20c. $1 20.
Certifying do. 5½c. @ 20c. 1 10.
———$2 50.

U. S. District Court, in Admiralty.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, City of New Orleans, ss:

(*Evidence for Claimants.*)

Be it remembered, That on this sixteenth day of May, in the year of our Lord one thousand eight hundred and fifty-four, before me, Wm. H. Hunt, a Commissioner, duly appointed by the Circuit Court of the United States in and for the Fifth Circuit and Eastern District of Louisiana, under and by virtue of the acts of Congress; "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20th, 1812, and the act of Congress which is entitled "An Act which is in addition to an act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes now depending in the Courts of the *Courts of the* United States,'" passed Mar. 1st, 1817, and the act entitled "An Act to establish the Judicial Courts of the United States," passed Sept. 24th, 1789,

personally appeared C. Dalferès, a person of sound mind and lawful age, witness for the claimants in a civil suit now depending in the District Court of the United States in and for the Eastern District of Louisiana, wherein James M. & Cyrus Coffman are libellants, and the steamboat Gipsey is defendant, and the said Dalferès being by me first carefully examined and cautioned and testified to speak the truth, the whole truth and nothing but the truth, did depose and say as follows:—

U. S. DISTRICT COURT:

In Admiralty.

JAMES M. & CYRUS COFFMAN
vs.
THE STEAMBOAT GIPSEY.

Deposition of C. Dalferès filed.

C. Dalferès, a witness for claimants, deposes: I am the capt. of the C. D. Jr., trading in Bayou Lafourche; I remember the occurrence of the accident out of which this suit arises.

I know the man who represented himself as the owner of the flatboat and cargo sunk in this collision. He went up with me as a passenger three days after the occurrence. I will furnish a memorandum of the name of the individual, and of the date when he went up. Going up he came to me and asked what it was best for him to do in relation to the accident which had happened to his boat with the Gipsey. He said that his boat had been left with a young man who was a greenhorn, and that the young man had not had a light out at the time of the accident, and that he did not believe he was obliged to have one out, as he was lying to the shore. He asked me to loan him a pair of blocks to hoist his boat out of the water, and remarked that if he could recover the money which was lost on board, he would not lose more than from $600 to 700, as he had sold a great portion of his cargo on the coast—he had been coasting along down, and retailing his cargo. I recollect the weather on the night of the collision; I recollect that the Gipsey and Laurel Hill both passed by me when I was laid up on account of the rain. They passed between 12 and 2 o'clock in the night. I laid up because I had nothing requiring me to proceed, since I was going to lie up at Donaldsonville for two days, and I could not land the furniture which I had as freight. I was then running only to the mouth of the Bayou. I did not lie up because of the fog or weather. The night was sufficiently good for me to run, and if I had not had this furniture to put out. Four or five boats also went up that night. I have run a good many times on the river when it was much darker and more foggy than it was on

that night; I have done so more than fifty times when I have been very much pushed. Upon the Bayou there is never any fog that can ever prevent me from running, for if you even strike on to one side of the bank you always slide to the other without doing the boat any injury at all.

The shade of the bank where the flat-boat was, would cover the whole of the flat-boat without *the shade of the bank where the flat-boat was, would cover the whole of the flat boat without* any fog or rain whatever at that stage of water.

Cross-Examined by Mr. Finney.

It was in the neighborhood of between 12 and one o'clock when I laid up; I laid up about 11 miles below Donaldsonville; I laid about 6 miles above Trudeau's wood-yard—I mean Mad'e Trudeau's, when this accident happened; I went to bed between 12 and 10 o'clock; there was a little light fog on the top of the river, but not enough to prevent a boat from running.

(Signed) C. DALFERES.

Examination taken, reduced to writing by me, and by the witness subscribed and sworn to at New Orleans this 16th May, 1854, before me.

(Signed) WILLIAM H. HUNT,
U. S. Commissioner.

U. STATES OF AMERICA,
Fifth Circuit and Eastern Dist. of Louisiana, City of New Orleans, ss:

I, William H. Hunt, Commissioner, duly appointed as aforesaid, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the witness intends to leave New Orleans, the place of trial of the cause for and in which said deposition was taken and is necessary.

I further certify that due notification was made out and served on the libellant's proctor or adverse party's attorney, to be present at the taking of the deposition, and to put interrogatories if he or they should think fit of taking the said deposition, was made out and served on said.

I further certify, that on this 16th day of May, A. D. 1854, I was attended by

H. H. Taylor, Esq., proctor for claimants, and John Finney, Esq., proctor for libellants, and by the witness, who was of sound mind and lawful age, and the said witness was by me carefully examined and cautioned, and sworn to testify the whole truth, and the deposition herein appearing was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, direct-

ing, and forwarding the same with my own hand to the Court for which the same was taken.

I further certify that I am not of counsel or attorney to any of the parties in said deposition and caption named, or in any way interested in the event of said civil cause named in the caption.

In testimony whereof, I have hereunto set my hand and seal, at New Orleans, this 16th day of May, A. D. one thousand eight hundred and fifty-four.

[L. S.] (Signed) WILLIAM H. HUNT,
U. S. Commis'r in and for East. Dist. of La.

Commissioner's fee $5, paid by claimants.

Notice to attorney for libl't $1. Service $1. Deposition folios $8\frac{1}{2}$.

UNITED STATES DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Mem. annexed to Deposition of C. Dalferies in Court, May 18th, 1854.

On examining the passenger register of the steamboat C. D. J'r on the upward trip, Dec. 24th, I find the name of J. M. Coffman, the person who represented himself to me as the owner of flat-boat sunk by the Gipsey a few days before, and concerning whom I testified yesterday (May 16th), before W. H. Hunt, Commissioner. He got out at Mather's plantation, a mile above where the boat was sunk.

C. DALFERIES.

May 17th, 1854, New Orleans.

U. STATES DISTRICT COURT:

In Admiralty.

JAS. M. & CYRUS COFFMAN
vs.
SEAMBOAT "GIPSEY."

Decree Rend'd May 23d, '54.

It appears from the evidence in this case that the steamboat Gipsey, while ascending the Mississippi River, near Trudeau's wood-yard, in the parish of St. James, stove and sunk a flat-boat belonging to the libellants, while the same was moored in a nook, close to the shore. There was, it is true, no light on the flat at the time of the occurrence, and the night was foggy and dark; but the position of the boat in the nook, and entirely out of the track of ascending boats, renders it most extraordinary that she should

have been struck without the grossest carelessness on the part of the officers of the steamer. The flat was moored near a wood-yard, but at the distance of 150 yards below the place where the steamboats were in the habit of landing to wood. She was, therefore, not obstructing the landing, and indeed, it is not pretended that the Gipsey intended to land there or anywhere near there. She had first crossed the river from Armant's plantation, and intended to land at Mather's, at the distance of a quarter of a mile above Trudeau's wood-yard. If the testimony of the pilot who was at the wheel of the steamer, is to be believed, the latter struck the flat at an angle of about 15 degrees. And if the testimony of Mr. Ure, the master, is to be adopted as the criterion by which the Court is to be governed, the steamer ran into the flat almost square on. Regarding the evidence of either of these witnesses as true, it is impossible to consider the collision in any other light than as the result of the most unpardonable carelessness on the part of the officers of the Gipsey. By their own showing they would have run against the shore itself if the flat had not arrested their progress. If it be true that the night was so smoky or foggy that objects near the shore could not be discerned, then it was their duty to go ashore and remain there until they could navigate their boat with safety. If, on the other hand, they experienced no obstacle from the thickness of the atmosphere they were guilty of the grossest negligence and the most reckless indifference to the safety of life and property in thus running the boat so near the shore.

I therefore pronounce for the damage in this case, and decree that the libellants do receive the amount sustained, to be ascertained by reference to the Commission in Admiralty, B. M. Lusher, Esq. And upon the coming in of his report, a final decree will be entered.

UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

In Admiralty.

May term, 1854. Stated sessions, Tuesday, May 23d, 1854. The Court met at 10 A. M.: present, Hon. Theo. H. McCaleb.

JAMES M. & CYRUS COFFMAN } No. 6903.
vs.
STEAMBOAT "GIPSEY." } Judgment and Reference.

The Court having taken under advisement, and carefully considered the evidence and argument in this case, and being satisfied, for the reasons now given in writing and filed, that the libellants' flat-boat at the time of the injury complained of was moored in a nook, to the bank of the river, entirely out of the track of ascending boats, and that the collision detailed in the pleadings was the result of unpardonable carelessness on the part of the officers of the

steamboat "Gipsey," the is now ordered and adjudged that the libellants recover of the claimants and surety of the steamer "Gipsey," the amount of damages by them sustained, and that to this end the matter be referred to R. M. Lusher, Esq., Commissioner in Admiralty to ascertain, assess, and report said damages preparatory to the rendition of a final decree herein.

U. STATES DISTRICT COURT:

In Admiralty.

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Admiralty Commissioner's Report, filed Mar. 8th, 1854.

To the Hon. Theo. H. McCaleb, Judge of said Court, &c.:

The undersigned Commissioner in Admiralty, in obedience to the order of reference in the above case, has carefully examined and considered all the testimony adduced by the parties, and recently submitted to him, and now respectfully reports the annexed schedule, as a fair and correct exhibit of the damages sustained and recoverable by the libellants.

The allegations of the libel as to the quality and kind of cargo originally shipped at Galliopolis, Ohio, and other neighboring places on the flat-boat are fully sustained, not only by the testimony of S. C. O. Byrne, one of the hands of the boat, whose recollection of details is truly surprising, but also by that of H. H. Neal on the article of flour, of Thomas Gardner and William Wright on that of apples, of Sam'l Rothgele, Ham'n Hay, and Thomas Gardner on that of potatoes, of Charles Weibert and R. Burnett on that of white beans, and of R. Burnett and H'y Norton on that of cider; also by the general testimony of Jos. G. Blaze. Touching the sales made on the boat at Vicksburg and elsewhere, before the accident, the witnesses, O. Byrne and Morton, substantially confirm the statements made by libellants; and on compairing these statements with the acc't sales made by the auct. in this city, the number of barrels of each article sold by him, there can be no reasonable doubt that the annexed schedule correctly sets forth the quantity of cargo on board at the time of the collision. The value affixed to this cargo was the market value at New Orleans, the port of destination, on or about the 22d, 24th Dec. 1853, as established by the testimony of Mr. John Fox, an experienced dealer in such articles.

The testimony of O. Byrne and Morton, the only two persons besides the libellants who were in a position to be aware of the fact, substantially proves the allegation that there were $1900 in money on board of the flat-boat at the time of the collision, and satisfactorily explains the manner in which it was lost.

The fact that the flat-boat in its sunken condition was sold for $15 25, appears in the testimony of Henry Morton. There can be no doubt from the evidence that the boat, before the collision, was worth at least $85.

The exact value of the utensils, guns, watch, &c., lost on the occasion, is not manifest; but is *is* presumed from the general testimony that they were worth at least $100 00.

The sale in this city at auction of the damaged remains of the cargo, having been occasioned by the collision, the Commissioner has allowed the charges stated in the account C. C. of Landis & Co., merchants (freight and other usual expenses), and debited the libellants only with the nett proceeds therein shown to be due to them.

The testimony and documents on which this report is founded are herewith submitted to the consideration of the Court.

Respectfully,
(Signed) R. M. LUSHER,
Ad'y Com'r.

New Orleans, March 8th, 1853.

U. S. DISTRICT COURT:
Eastern Dist. of Louisiana.

In Admiralty. No. 6903.

JAS. M. & CYRUS COFFMAN
vs.
STEAMER "GIPSEY."

Schedule for Damages Sustained by Libellants from Collision, Decem. 22d, '53.

Cargo on board of flat at time of collision, and market value, namely:

Flour,	150 bbls. @ $6	$900 00	
Apples,	400 bbls. @ $3	1200 00	
Potatoes,	160 bbls. @ $2	320 00	
Beans,	10 bbls. @ $4	40 00	
Cider,	9 bbls. @ $4½	40 50	
			$2,500 50
Cash (part proceeds of previous sales) on board and lost,			$1,900 50
Flat-boat, reasonably worth	$85 00		
Sold in sunken condition at	$15 25		
		$69 75	
Utensils, guns, watch, &c. lost, estimated as worth, say		$100 00	
			$169 75
Damage			$4,570 25

Deduct: Nett proceeds realized by lib'ts from sale of 580 bbls. sundries saved in a damaged state, and sold at N. Orl's as per account of R. B. Sykes, auct., and of Landis & Co., merchants,	$953 60
Actual loss of libellants	$3,616 65
From $3,616 65	
Deduct 200 50	
$3,416 15	

(Signed) ROBT. M. LUSHER,
Ad'y Comm'r.

Testimony accompanying Ad'y Comm'r's Report.

DISTRICT COURT OF THE UNITED STATES,
holding Sessions at New Orleans in and for the East. Dist. of Louisiana:

To any Judge or Justice of the Peace in Lawrence county, Ohio.

(Commission.)

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you the persons named in the accompanying interrogatories, and then duly examine on oath touching and concerning certain matters and things in a case now depending in the said Court, wherein Jas. M. and Cyrus Coffman are libellants, and the owners of the steamer "Gipsey" are claimants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this Court without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Honorable Theo. H. McCaleb, Judge of the District Court of the United States of the city of New Orleans, the twenty-first day of December, Anno Domini 1854, and the seventy-ninth year of the Independence of the United States of America.

[SEAL.] (Signed) N. R. JENNINGS,
Clerk.

by ROB'T M. LUSHER,
D'y Clerk.

UNITED STATES DISTRICT COURT:

In Admiralty.

JAMES M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY."

Interrogatories to be answered by William Knight and Thomas Gardiner, of Lawrence county, Ohio, whose depositions will be taken at Miller's Point, in said county, in behalf of the libellants.

1st. Do you know the parties to this suit; where do you reside; what is your occupation?

2d. Have you any knowledge of the departure of a flat-boat from the neighborhood of Galliopolis on or about the last day of October, 1853, in charge of Mr. James M. Coffman, on a trip down the Mississippi to the southern country; if yea, when did the said flat-boat start from the neighborhood of Galliopolis, and to what place was she destined; who were the men hired for the voyage? state their names.

3d. To whom did the said flat-boat belong; how was she laden; state fully the amount of cargo she received on board; state the different kinds of cargo she took on board, and how much of each kind; state also to whom the said articles composing the cargo belonged; please state whether or not the said flat-boat was wholly or partly full when she started on the said voyage; if she were only partly full please state in what proportion she was loaded, whether half full, three-fourths full, or whatever the proportion was; how much more could the flat-boat safely carry than she had on board when she started on said trip?

4th. If you cannot tell how the said flat-boat was loaded, please mention any particular article you happen to know of being on board, and the quality of it, and how you happen to know it was on board.

5. Were you or not on board of said flat-boat during her voyage or any part of it; if yea, how far did you come on it; where did you go on said flat-boat and where did you leave her; who was pilot of her while you were on her?

6th. If you say you were on said flat-boat during the trip or for a part of the trip, please state what portion of the cargo remained on board when you left the flat, and what portion had been sold; if any portion of it had been sold please state who sold it and who received the money; who took charge of the money that was paid in for different portions of the cargo?

(Signed) BENJAMIN, BRADFORD & FINNEY.

All legal exceptions to the above interrogatories reserved. No cross-interrogatories to propound.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Att'ys for Def'ts.

Affidavit and order of commission received; commission to issue to any Justice of the Peace in Lawrence county, Ohio; the certificate of the Clerk and Judge of the county or other Court of record of the official capacity and signature of the Justice before whom the Commission is taken to be sufficient proof of the same.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Atty's for Def'ts.

JAMES M. & CYRUS COFFMAN
vs.
STEAMBOAT "GIPSEY."

Test'y for Libel'ts before Ad'y Comm'r.

Deposition of witnesses produced, sworn and examined by virtue of the annexed commission, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty-five, at the office of S. McCown, Esq., in Roun Township, in the county of Lawrence, and State of Ohio, before me, S. McCown, a Justice of the Peace within and for the county and State aforesaid, in a certain cause now pending in the United States District Court for the Eastern District of Louisiana, wherein James M. and Cyrus Coffman are libellants.

William Knight, of the county of Lawrence and State of Ohio, of lawful age, being produced and duly sworn by me, as hereafter certified, answers as follows to the interrogatories propounded to him in this cause and attached to said Commission.

Answer to interrogatory No. 1. I am acquainted with the said James M. and Cyrus Coffman, but am not acquainted with the owners of the Steamboat Gipsey; I reside at Miller's Port in Lawrence county, in the State of Ohio, and am at present engaged in running, as captain and owner, the steamer Buckeye Belle on the Ohio river.

Answer to interrogatory No. 2. I have some knowledge of the departure of such a flat-boat, in charge of James M. Coffman, about the last of October, A. D. 1853, destined to some place in the southern country, but did not understand exactly what point she was destined to; said flat-boat started from Gardner's Landing, a short distance below Gallipolis, in Gallia county, Ohio, on or about the last of October, 1853; Gardner's Landing is below Millersport, about six miles, in Lawrence county, Ohio.

I do not know the men who were hired for the voyage, nor do I know their names; I knew no one on the said flat-boat except the said James M. Coffman.

Answer to interrogatory No. 3. Said flat-boat belonged to James M. and Cyrus Coffman, as I was told by them at the time they were taking on board of said flat a part of her cargo at Millersport.

I know of no other owners; I cannot state fully the amount of cargo said flat-boat received on board; I cannot state all the differ-

ent kinds of cargo said flat-boat received on board, only that she was loaded chiefly with flour, potatoes, and apples; I cannot state how much there was of each kind; the articles comprising the cargo of said flat-boat belonged to the said James M. and Cyrus Coffman, as I understood from them at the time; I know of no other owners; I saw said flat-boat afloat after she started on her said voyage, some fifty or sixty miles below the said Gardner's Landing; she was then full, for she had on board as much as she could safely carry.

Answer to interrogatory No. 4. All I can state definitely in regard to the cargo of said flat-boat is as follows: a few days before said flat-boat finally started from Gardiner's Landing on her said voyage, she was loaded in at Millersport, at which place I delivered on board of said flat-boat three hundred and fifteen barrels of apples, of merchantable quality, sound, and in good order, which I had previously sold to the said James M. and Cyrus Coffman; after these apples were put on board said flat-boat was dropped down to Gardiner's Landing where she finished out her cargo, but I cannot state the quantity taken in at Gardiner's; this amount of said three hundred and fifteen barrels of apples were delivered on board of said flat-boat by myself.

Answer to interrogatory No. 5. I know nothing to answer to this interrogatory, as I did not go on said boat on her said voyage, and only saw her once after she started, and that was some fifty or sixty miles below the place she started from on her said voyage, as stated above.

Answer to interrogatory No. 6. I cannot state anything in answer to this interrogatory, as I know nothing of the matters embraced therein.

(Signed) W'M KNIGHT.

Sworn to and subscribed on the day and at the place first aforesaid.

(Signed) S. McCOWN,
J. P.

And also Thomas Gardner, of the county of Lawrence and State of Ohio, of lawful age, being produced and duly affirmed by me as hereafter certified, answers as follows to the interrogatories propounded to him in this cause and attached to said commission.

Answer to interrogatory No. 1. I am acquainted with the said James M. and Cyrus Coffman, but I do not know the owners of the said steamboat "Gipsey;" I reside at Gardner's Landing, in Lawrence county, in the State of Ohio, and my occupation is farming, fruit culture, growing fruit for market, growing nurseries, &c.

Answer to interrogatory No. 2. I have a knowledge of the departure of such a flat-boat; said flat-boat started from the neighborhood of Gallipolis, to and from Gardner's Landing, below Gallipolis, on the 31st day of October, A. D. 1853, and was destined to New Orleans, in the State of Louisiana; James M. Coffman had

charge of said flat-boat, but I cannot state who the hands were that were hired for the voyage, or their names; there was a full crew on board, but they were strangers to me, and if I heard their names at the time, I have now forgotten them.

Answer to interrogatory No. 3. Said flat-boat belonged to James M. and Cyrus Coffman; she was fully laden when she left said Gardner's Landing, on her said voyage on the 31st day of October, A. D. 1853; I cannot state fully the amount of cargo she received on board; the different kinds of articles composing her cargo consisted chiefly of flour, potatoes, and apples; she might have had some other kinds of articles on board; I don't recollect, as I did not examine her cargo particularly; I cannot state how much of each of these kinds of cargo she had on board; her whole cargo belonged to James M. and Cyrus Coffman; said flat-boat was full when she started from Gardner's Landing on the 31st day of October, 1853; there was as much on board as could be stowed away, she was full to the roof, had as much on board as she could safely carry; I had contracted to the said Messrs. Coffman my crop of apples which they were to take on board as they dropped their said flat-boat down to my (Gardner's) landing, but when they got there with their flat-boat they had so much on board with some small lots of apples and potatoes, that they took on at my Gardner's landing, that they could not take but six hundred barrels of my apples on board of their said flat for want of room to stow away, leaving about three hundred barrels of my crop that I had ready for them, that they could not take; these six hundred barrels of apples finished out her full cargo.

Answer to interrogatory No. 4. The particular articles I know of being on board of said flat-boat, and the quantity of each, of my own knowledge, are as follows: When said flat-boat was dropped down and landed in at my Gardner's landing she had on board a large quantity of flour, apples, and potatoes, but can't state how much of each kind; then at my landing I delivered to said Messrs. Coffman six hundred barrels of good, sound, merchantable apples which at the same time were put on said flat-boat; at the same time and place said flat-boat received on board fifty odd barrels of apples purchased by said Messrs. Coffman of a man by the name of Cross; said apples were good and merchantable; at the same time and place said flat boat received on board about fifty barrels of potatoes; these last above mentioned articles completed the cargo of said flat-boat, and she started from my landing on the 31st day of October, 1853, with a full cargo as aforesaid; the means I have of knowing that these last above mentioned articles were on board of said flat are, that I was present at the time said articles were delivered and put on board of said flat-boat.

Answer to interrogatory No. 5. I was not on board of said flat-boat during her voyage, or any part of it. Do not know the name of her pilot.

Answer to interrogatory No. 6. I can state nothing in regard to any motive embraced in the interrogatory, as I know nothing in reference thereto.

(Signed) THOMAS GARDNER.

Sworn to and subscribed on the day at the place aforesaid.

(Signed) J. McCOWN,
J. P.

THE STATE OF OHIO,
Lawrence County, ss:

I, S. McCown, a Justice of the Peace within and for the county aforesaid, do hereby certify that the said William Knight, one of the above named deponents, was by me duly sworn, and the said Thomas Gardner, the other of the above named deponents, was by me duly affirmed to declare the truth, the whole truth, and nothing but the truth, on the questions put to them in the cause; that the interrogatories were produced to them and their answers thereto taken in writing by L. Perry, a disinterested person, in my presence and at my request, and subscribed by them respectively in my presence, on the day and at the place in that behalf first aforesaid.

(Signed) S. McCOWN,
J. P.

Justice fees for taking depositions	1 70	
Subpœna	15	
Swearing 2 witnesses, 5 cents each	10	
		1 95
Wm. Knight, one day	50	
T. Gardner, one day	50	
		1 00
		$2 95

The above am't of $2 95, costs of these depositions before me, paid by libellants Jan'y 15th, 1855.

(Signed) S. McCOWN,
J. P.

THE STATE OF OHIO,
Lawrence County, ss:

I, Thomas Proctor, Clerk of the Court of Common Pleas of said Lawrence County, hereby certify that S. McCown, Esq., by whom the foregoing depositions were taken, was, at the time the same were so taken, and still is, a Justice of the Peace within and for said county of Lawrence, duly elected, commissioned, and qualified; I further certify that the signature of the said S. McCown, sub-

scribed thereto as above, is known by me to be his genuine signature, and that full faith and credit are due to all his official acts.

In testimony whereof, I have hereto set my name, and affixed the seal of said Court of Common Pleas, at Ironton, in said county, this 25th day of January, A. D. 1855.

(Signed) THOMAS PROCTOR,
Clerk.

STATE OF OHIO,
Court of Common Pleas, ss:

I, Wm. V. Peck, Presiding Judge of the Second Subdivision of the Seventh Judicial District of the Court of Com. Pleas in and for the State of Ohio (said Lawrence County being within said subdivision), do hereby certify that Thomas Proctor, Esq., whose signature in his own proper handwriting, is affixed to the foregoing certificate, was at the time the same was dated, and still is, the regular and acting Clerk of the Court of Com. Pleas for said Lawrence County, which is a Court of Records—that the said certificate is in due form of law, and that full faith and credit are due to the official acts and certificates of the said Thomas Proctor as Clerk as aforesaid. Given under my official signature at my office, in the city of Portsmouth, this 20th day of Jan., A. D. 1855.

(Signed) WM. V. PECK,
Presiding Judge, &c.

DISTRICT COURT OF THE UNITED STATES,

holding Sessions at New Orleans, in and for the Eastern District of Louisiana.

(Commission.)

To any Judge or Justice of the Peace in Gallia County, Ohio.

Know ye, That reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call, and cause to come before you, the persons named in the accompanying interrogatories, and them duly examine on oath, touching and concerning certain matters and things in a case now depending in the Court wherein Jas. M. and Cyrus Coffman are libellants, and the owners of the steamer "Gipsey" are claimants; and the same examinations so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this Court, without delay, to be read in evidence on the trial of said cause; and send also this writ.

Witness the Honorable Theo. H. McCaleb, Judge of the District Court of the United States, at the city of New Orleans, this

twenty-first day of December, Anno Domini 1854, and the seventy-ninth year of Independence of the United States of America.

(Signed) N. R. JENNINGS,
Clerk.

by ROB'T M. LUSHER,
D'y Clerk

U. S. DISTRICT COURT:

In Admiralty.

J. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Interrogatories to be answered by Joseph S. Blayer, Henry H. Neall, Samuel Rothgele, Charles Weibert, Jonathan Hamilton, Richard Burrette, Hamilton Hay, and Reuben Hay, of Gallia county, Ohio, witnesses for the libellants.

1. Do you know the parties of this suit? Where do you reside? What is your occupation?

2. Have you any knowledge of the departure of a flat-boat from the neighborhood of Gallipolis on or about the last day of October, 1853, in charge of Mr. James M. Coffman, on a trip down the Mississippi to the southern country? If yea, when did the said flat-boat start from the neighborhood of Gallipolis, and to what place was she destined? Who were the men hired for the voyage? state their names.

3. To whom did the said flat-boat belong? How was she laden? State fully the amount of cargo she received on board; state the different kind of cargoes she took on board, and how much of each kinds. State also to whom the said articles composing the cargo belonged. Please state whether or not the said flat-boat was wholly or only partly full, when she started on the said voyage. If she were only partly full, please state in what proportion she was loaded, whether half full, three-fourths full, or whatever the proportion was. How much more could the flat-boat safely carry than she had on board when she started on said trip?

4. If you cannot tell how the said flat-boat was loaded, please mention any particular article you happen to know of being on board, and state the quantity of it on board, and how you happen to know that it was on board.

5. Were you or not on board of said flat-boat during her voyage or any part of it? If yea, how far did you come on it? Where did you go on said flat-boat, and where did you leave her? Who was pilot of her while you were on her?

6. If you say you were on said flat-boat during the trip, or for a part of the trip, please state what portion of the cargo remained on board when you left the flat-boat, and what portion had been sold.

If any portion of it had been sold, please state who sold it and who received the money. Who took charge of the money that was paid in for different portions of the cargo?

7. What was the condition of said flat-boat with regard to soundness? At the time said flat-boat started from the neighborhood of Gallipolis on said voyage, please state what it would be worth to buy such a flat-boat, and the usual and necessary outfit.

(Signed) BENJAMIN BRADFORD & FINNEY,
Att'ys.

All legal exceptions to the above interrogatories reserved.

No cross interrogatories to propound.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Att'y for Def't.

Affidavit and order of Commission.

Commission to issue to any Judge or Justice of the Peace in Gallia County, Ohio. The certificate of the Clerk and Judge of the county or other Court of record of the official capacity and signature of the Justice before whom the commission is taken to be sufficient proof of the same.

(Signed) MILES TAYLOR & H. H. TAYLOR,
Att'y for Def'd't.

JAS. M. & CYRUS COFFMAN
vs.
STEAMBOAT GIPSEY.

Depositions of witnesses produced, sworn, and examined, by virtue of the annexed commission, on the eleventh day of January, in the year of our Lord one thousand eight hundred and fifty-five, at the court-house in the town of Gallipolis, in the county of Gallia, and in the State of Ohio, before me, Joseph Hunt, a Justice of the Peace within and for the county and State aforesaid, in a certain cause now pending in the United States District Court for the Eastern District of Louisiana, wherein James M. & Cyrus Coffman are libellants, and the owners of the steamboat Gipsey are claimants.

Richard Burrett, of the county of Gallia and State of Ohio, of lawful age, being first produced and duly sworn, answered as follows to the interrogatories propounded to him in this cause and attached to said commission.

Answer to interrogatory No. 1. I am acquainted with the said James M. and Cyrus Coffman; I am not acquainted with the owners of the said steamboat Gipsey. I reside in Greene township, Gallia county, Ohio. My occupation is chiefly farming and running as a hand on flat-boats on the Ohio and Mississippi rivers.

Answer to interrogatory No. 2. I know of the departure of a flat-

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boat from the neighborhood of Gallipolis, in the county of Gallia, Ohio, on or about the last day of October, A. D. 1853 (but I cannot state precisely the day), in charge of Mr. James M. Coffman on a trip down the Mississippi to the southern county. Said flat-boat started from the neighborhood of Gallipolis on or about the last day of October, A. D. 1853, and was destined to New Orleans, in the State of Louisiana. The men hired for the voyage were Noah Kinder, pilot, Cunningham O. Burns, Henry Morton, Nathan Centers, and myself, Richard Burnett, hands employed.

Answer to interrogatory No. 3. The said flat-boat belonged to James M. and Cyrus Coffman, and she was laden with flour, potatoes, beans, apples, and cider. As to the quantity of the said articles with which said flat-boat was laden, I can only state as follows: I did not assist in loading in the flour, nor count the number of barrels, but I saw the flour after it was put on said flat-boat, and should think from the bulk that there were at least two hundred barrels; I assisted in putting in said flat-boat forty-four or forty-five barrels of potatoes at Hay's landing, purchased from Reuben and Hamilton Hay, and fifty barrels of potatoes at Gardiner's landing, purchased from a man by the name of Cox. There had been put on said flat-boat before this time, that I assisted in putting the above named potatoes on said boat, quite a large quantity of potatoes, but I cannot tell how many, but I understood that they were a lot that had been purchased of one Samuel Rothgele, and loaded in said boat before I assisted in putting on said flat-boat seven or eight barrels of white beans at Miller's Pont, a part of them from a man *a man* by the name of Clark. There were other beans on board, but I can't tell how many. I assisted in putting aboard of said flat-boat several hundred barrels of apples at Millersport, which the said Coffman purchased of one William Knight, but I cannot state the number; we put on board said flat-boat six hundred barrels of apples at Gardner's Landing, purchased of T. Gardner, and fifty-three or fifty-four barrels of apples at Gardner's Landing, purchased from a man by the name of Cross; we put on board said flat-boat six or seven barrels of cider; all the said articles, with which said flat-boat was loaded, belonged to the said James M. and Cyrus Coffman; the said flat-boat, when she started on said voyage down the river, was full, she had as much on board as could be stowed away: she was full to the roof.

Answer to interrogatory No. 4. The said flat-boat was loaded with the articles mentioned in my answer to interrogatory No. 3, and the quantity of each article constituting such load I cannot state any further than is stated in my said answer to said interrogatory No. 3, and the means I have of knowing that said articles were on board of said flat when she started on her said trip, and the quantities of each as stated above, are, that I was employed by the said James M. and Cyrus Coffman as a hand on said voyage; was on board of said flat-boat and saw and assisted in putting on board

the said several articles, and the said several quantities thereof respectively, as stated in my foregoing answer to said interrogatory No. 3.

Answer to interrogatory No. 5. I was a hand on said flat-boat during a part of her said voyage; I went on said flat-boat from the place where she started, near Gallipolis, Gallia county, Ohio, to Vicksburg, in the State of Mississippi; I left said flat-boat at Vicksburg, in the State of Mississippi; Noah Kinder was pilot on said flat-boat during all the time I was on her.

Answer to interrogatory No. 6. Said flat-boat arrived at Vicksburg on Sunday; I left her the day following, Monday, late in the night; no sales had been made, according to the best of my recollection, before reaching Vicksburg, of any articles with which said boat was loaded; considerable sales of apples, a few barrels of flour, and some potatoes, were made at Vicksburg on Monday before I left the boat, but how much I cannot state; I cannot state how much of her cargo remained on board when I left on Monday night; James M. Coffman made all the sales of articles that were made while I was on said boat, and received and took charge of the money that was received.

Answer to interrogatory No. 7. At the time said flat-boat started from the neighborhood of Gallipolis on said trip she was sound and in good order, and continued so up to the time that I left her at Vicksburg, as above stated; I cannot state what said boat would be worth, or what she would cost, or the cost of the usual and necessary outfit for such a voyage.

his
RICHARD + BURNETTE.
mark.

Sworn to and subscribed by the said Richard Burnette by his affixing his mark thereto in my presence on the day and at the place first aforesaid.

(Signed) JOSEPH HUNT,
J. P.

And also Joseph J. Blazer, of said county of Gallia, Ohio, of lawful age, being first produced and duly sworn by me as hereafter certified, answers as follows to the interrogatories propounded to him in this cause and attached to said commission.

Answer to interrogatory No. 1. I am acquainted with the said James M. and Cyrus Coffman; I am not acquainted with the owners of the said steamboat Gipsey; I reside in Gallipolis township, Gallia county, Ohio; I am at present engaged in farming; I was formerly engaged in carrying on a boat-yard for the building of flat-boats; I was engaged in carrying on a boat-yard in 1853.

Answer to interrogatory No. 2. I know of the departure of a flat-boat from the neighborhood of Gallipolis, Gallia, Ohio, about the last of October, 1853, in charge of Mr. James M. Coffman, on a

trip down the Mississippi to the southern county, Ohio, though I did not see her the day she started; the said flat-boat started about the last of October, 1853, and was destined to New Orleans; the men hired for the voyage were Noah Kinder, pilot, Cunningham O. Burns, Henry Morton, Nathan Centers, and Richard Burnette.

Answer to interrogatory No. 3. The said flat-boat belonged to James M. and Cyrus Coffman; I was on board of said boat at my landing, about four miles below the town of Gallipolis; at that time she was but partly loaded; she had on board then about two hundred barrels of flour, and about two hundred barrels of potatoes, and some five or six barrels of cider, and I cannot state the amount of beans; the articles that were on said flat-boat, when I saw her, belonged to James M. & Cyrus Coffman; when the said flat-boat was at my landing she was but partly full; Hay's Landing, Millersport, and Gardner's Landing, are below my landing on the Ohio river, at which several places on landing I understand that the said flat-boat landed and took in potatoes and apples to make out her full cargo; I did not see said flat-boat after she was fully loaded, and when she started on her said trip down the river.

Answer to interrogatory No. 4. I cannot state all the articles and quantities of each that composed the entire cargo when she started, as I did not see her after she dropped down from my landing to the said landings below; the means I have of knowing that said and quantities of each mentioned in my answer to interrogatory No. 3 were on board of said flat-boat, are, that I was on board of said flat-boat at my landing when she was partly loaded, and saw the same.

Answer to interrogatory No. 5. I was not on said flat-boat during her said voyage or any part of it.

Answer to interrogatory No. 6. I have no knowledge of any of the matters embraced in this interrogatory.

Answer to interrogatory No. 7. The said boat was a sound boat at the time she started from the neighborhood of Gallipolis on her said voyage; she was built in my yard, and of good sound materials; I saw her nearly every day while she was building till she was finished; I have been engaged in building and dealing in flat-boats for the last sixteen years, and I profess to be a judge of the quality of flat-boats, and unhesitatingly say that she was a No. *One* boat; said flat-boat was 85 or 86 feet long and 18 feet wide, 6 feet high from the binders to the roof, 7 feet and 4 inches high in the middle; the said flat-boat was worth at that time, besides her outfit, two hundred and thirty-three dollars and seventy-five cents; her usual and necessary outfit could not be less than one hundred dollars, and perhaps more than that amount; I have fitted out, loaded, and run down the Ohio river forty flat-boats within the last sixteen years.

(Signed) JOSEPH J. BLAYER.

Sworn to and subscribed to on the day and at the place first aforesaid.

(Signed) JOSEPH HUNT,
J. P.

And also Henry H. Neal, of the said county of Gallia, Ohio, of lawful age, being first produced *Ohio of lawful age, being first produced*, and duly sworn by me, as hereafter certified, answers as follows to the interrogatories propounded to him in this cause and attached to said commission.

Answer to interrogatory No. 1. I am acquainted with the said James M. and Cyrus Coffman, but I am not acquainted with the owners of the steamboat Gipsey; I reside in the town of Gallipolis, Gallia county, Ohio; I am engaged in the business of merchandizing, carrying on a flouring mill, and manufacturing paper.

Answer to interrogatory No. 2. I know of the departure of a flat-boat from the neighborhood of Gallipolis, Gallia county, Ohio, some time in the month of October, 1853, in charge of James M. Coffman; said flat-boat started from the neighborhood of Gallipolis, Gallia county, Ohio, some time in the month of October, 1853, destined to New Orleans, in the State of Louisiana; I cannot state what hands were employed for the voyage, nor the names.

Answer to interrogatory No. 3. The said flat-boat was owned by James M. and Cyrus Coffman; I cannot state how said flat-boat was laden; I can't state the amount of cargo she received on board, except two hundred barrels of merchantable superfine flour; I cannot state the different kinds of cargo she took on board, nor how much of each kind; in regard to the ownership of said cargo I can state nothing only as to the two hundred barrels of flour which I sold to said James M. and Cyrus Coffman, and delivered to them at the wharf in Gallipolis, which was put on board of said flat-boat; I cannot state whether said flat-boat was partly full only, or whether she had on a full cargo when she started on her said trip.

Answer to interrogatory No. 4. I know that two hundred barrels of merchantable superfine flour were put on board of said flat-boat, and the means that I have of knowing it are, that I sold and delivered said amount of flour on board of said flat-boat at the wharf in Gallipolis.

Answer to interrogatory No. 5. I was not on said flat-boat during her voyage, or any part of it.

Answer to interrogatory No. 6. I know nothing of the matters embraced in this interrogatory.

Answer to interrogatory No. 7. I have no knowledge whether said flat-boat was sound or not, as I did not examine her; she was a new boat, and if sound was worth two dollars and seventy-five cents per foot; I have loaded and fitted out fifteen or twenty flat-boats, in the last fifteen years, with flour and different kinds of pro-

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duce for the New Orleans market, and would estimate the expense for the usual and necessary outfit of a new boat at one hundred and fifty dollars. H. H. NEAL.

Sworn to and subscribed on the day and at the place first aforesaid.

JOSEPH HUNT,
J. P.

And also Charles Weibert, of said county of Gallia, Ohio, of lawful age, being first produced and duly sworn by me, as hereafter certified, answers as follows to the interrogatories propounded to him in this case and attached to said commission.

Answer to interrogatory No. 1. I am acquainted with James M. and Cyrus Coffman; I am not acquainted with the owners of the steamboat Gipsey; I reside in Gallipolis, Gallia county, Ohio; my occupation is trading in merchandise and buying and selling produce.

Answer to interrogatory No. 2. I know of the departure of a flat-boat from the neighborhood of Gallipolis, Gallia county, Ohio, in charge of James M. Coffman, on a trip down the Mississippi to the southern country; said flat-boat started from the neighborhood of Gallipolis some time in the month of October, A. D. 1853, destined to New Orleans, in the State of Louisiana; I do not know the men hired for the voyage, nor their names.

Answer to interrogatory No. 3. The said flat-boat belonged to the said James M. and Cyrus Coffman; I cannot state how said flat-boat was loaded, nor the amount of cargo that she received on board, except a quantity of white beans, about ten or fifteen barrels, which I sold to the said James M. and Cyrus Coffman, and were put on board of said flat-boat at the wharf in Gallipolis; when I last saw said flat-boat at the wharf in Gallipolis, she was only partly full, but she did not start on her said voyage till some time afterwards, and whether she was full or not when she started I cannot state.

Answer to interrogatory No. 4. I know nothing definitely of the articles on board of said boat, except the said ten or fifteen barrels of white beans, spoken of above; I cannot state exactly the amount of beans, but it was not less than ten, nor more than fifteen barrels; the means I have of knowing that said beans were on board, are, that I sold and delivered them on board at the wharf in Gallipolis.

Answer to interrogatory No. 5. I know nothing of the matters embraced in this interrogatory.

Answer to interrogatory No. 6. I know nothing of the matters embraced in this interrogatory.

Answer to interrogatory No. 7. I have no knowledge of the matters embraced in this interrogatory.

(Signed) CHARLES WEIBERT.

Sworn to and subscribed on the day and at the place first aforesaid.

(Signed) JOSEPH HUNT,
J. P.

knowledge of being on board of said flat-boat are the said two hundred barrels of potatoes sold by me; I was aboard of said flat-boat and saw said potatoes; I was not aboard of said flat-boat after the six or eight barrels of cider which James M. Coffman of John Leonard, S'r, as stated in answer to interrogatory No. 3, were delivered aboard of said boat.

Answer to interrogatory No. 5. I know nothing of the matters embraced in this interrogatory.

Answer to interrogatory No. 6. I know nothing of the matters embraced in this interrogatory.

Answer to interrogatory No. 7. When I was aboard of said flat-boat at my landing she appeared to be a sound and good boat; I would estimate the value of said flat-boat at not less than one hundred and seventy-five dollars, nor more than two hundred dollars; I should consider

THE STATE OF OHIO,
Gallia County:

I, Joseph Hunt, a Justice of the Peace within and for said county, do hereby certify that Richard Burnett, Joseph S. Blayer, Henry H. Neal, Charles Weibert, Hamilton Hay, and Samuel Rothgele, 2d, the above named deponents were by me severally sworn to disclose the truth, the whole truth and nothing but the truth, on the questions put to them in the cause; that the interrogatories were produced to them, *that the interrogatories were produced to them*, and their answers thereto taken in writing by me and subscribed by them respectively in my presence on the day and at the place in that behalf aforesaid.

February 12th, 1855.

(Signed) JOSEPH HUNT,
Jus. P.

Justice's Fees.		
For taking depositions,	4 20	
Certificate,	25	
Swearing 6 witneses, 5 cts each,	30	
Subpœna,	45	
	—	5 20
Constable's Fees.		
On Subpœna,	2 77½	
Witness Fees.		
6 witnesses, 1 day each, 75 cts each,	4 50	
Mileage,	60	7 87½
		$13 07½

Above sum of $13 07½ costs of these depositions paid by plaintiffs. (Signed) JOSEPH HUNT,
Jus. Peace.

THE STATE OF OHIO,
Gallia County:

I, Joseph Drouillard, Clerk of the Court of Common Pleas of said county of Gallia, do hereby certify that Joseph Hunt, [L. S.] Esq., before whom the foregoing depositions appear to have been taken, was at time, and now is a Justice of the Peace in and for said county of Gallia, duly commissioned and sworn, and that unto all his official records and full faith and credit are due and ought to be given as well in courts of justice as elsewhere, and that the foregoing signature purporting to be his, is genuine.

In testimony whereof I have hereunto set my name and affixed the seal of said Court, at Gallipolis, this 15th day of February, A. D. 1855.

(Signed) JOS. DROUILLARD,
Clk.

This certif., 50 cents paid by pl'ff.

(Signed) J. DROUILLARD,
Clk.

I, Simeon Nash, Presiding Judge of the Court of Common Pleas within and for the county of Gallia, in the State of Ohio, said county of Gallia being in the third subdivision of the Seventh Judicial District of said State of Ohio, said Court being a Court of Record, do hereby certify that Joseph Drouillard is Clerk of said Court, and that his attestation aforesaid is in due form of law, and that, to all acts by him so done, full faith and credit are and ought to be given as well in all Courts of Justice as elsewhere.

In testimony whereof I have hereunto set my hand this fifteenth day of February, A. D. 1855.

(Signed) SIMEON NASH,
Pres. Judge Com. Pleas.

U. STATES DISTRICT COURT:

In Admiralty.

JAS. M. & CYRUS COFFMAN vs. STEAMER "GIPSEY." } No. 6903.

Monday, Feb. 26, 1855. Before Ad'y Com'nr. Present, Jno. Finney, Esq., for libellants, and H. H. Taylor, Esq., for claimants.

William Spence, a witness of sound mind and lawful age for libellants, having been duly sworn, deposes:

In the latter part of 1853 I was clerk and book-keeper in the house of Jos. Landis & Co. of this city; I recollect of a consignment to that house of a portion of the cargo of a flat-boat belonging to the Coffmans lib'ts, and of the sale of such portion of the cargo at auction by R. B. Sykes and Co.; the document now before me, marked *A A*, is the account sales of it; the document marked *B*

B is a correct account of the nett proceeds of the cargo rendered by Jos. Landis & Co. after deducting freight charges and expenses of sale.

M. Eagle and Mr. Fox were requested to ascertain and assess the value in a sound state, if it had been in such state, of this portion of the cargo so sold; I presumed that they inspected it; I was not present; they were requested to do so, and they made a return.

Cross-ex'd by Mr. H. H. Taylor.

What I have said in relation to doct's *A A* and *B B* it is of my own personal knowledge.

(Signed) WILLIAM SPENCE.

(Signed) ROBT. M. LUSHER,
Ad'y Comm'r.

John Fox, also a witness for the libellants, of sound mind and lawful age, having been duly sworn, deposes:

I am one of those who made the survey in this matter and signed the document now before me, *C C;* the survey made by me is correctly set forth in this certificate, and the appraisement thereon of the goods as though they had been in a sound state is correct according to the rates at which such articles were sold in the market at the time.

I was then, and am now, a member of the house of Jos. Conelly & Co.; this house was then largely engaged in the sale of flour, and such articles as are mentioned in this certificate.

(Signed) JNO. FOX.

No cross exam'n.

I corroborate the above (under oath).

(Signed) J. EAGER.

(Signed) ROB'T M. LUSHER,
Ad'y Com'r.

Doc. A A. Acc't Sales.

Sold at auction by R. B. Sykes, auctioneers, by order of Messrs. Joseph Landis & Co., for ac. of whom it may concern, the following quantities merchandise, damaged on Coffman's flat-boat by being run into by steamer Gipsey.

1853.

Dec. 27th.	81 bbls.	potatoes,	1 55,	$125 55
	3 "	flour,	3 15,	15 45
	1 "	cider		4 05
				$145 05

Charges.

Advertising,	3 00	
State duty and com.,	4 35	
	——7 35	
Nett proceeds,		$137 70

E. E.

New Orleans, Dec. 28th, 1853.

(Signed) R. B. SYKES.
ROBT. ELLIS.

Sold at auction, by R. B. Sykes, auctioneer, by order of Messrs. Joseph Landis and Co., of whom it may concern, the following quantities of merchandise, damaged on Coffman's flat-boat when run into by steamer "Gipsey."

137	bbls.	flour,	4 10,	$561 70
302	"	apples,	1 80,	543 60
47	"	potatoes,	1 85,	86 95
1	"	whiskey, 38,	22½,	8 55
8	"	cider,	3 87½,	31 00
				1231 80

Charges.

Advertising,	$3 00	
Labor,	75	
State duty and com.,	36 93	40 68
		$1191 12

E. E.

New Orleans, Dec. 28th, 1853.

(Signed) R. B. SYKES,
ROBT. ELLIS.

B B.

Mr. James M. Coffman in ac. with Joseph Landis & Co. Cr.

1853.

Dec. 28. By nett sales No. 2,304, $1,005 69

Dr.

28.	Paid Cash to Jan.,	$50 00	
	Watching on Levee,	2 00	52 00
	Due Ja's Coffman,		953 69

New Orleans, 29 Dec. 1853.

B B. *No.* 2,304.

Sales at auction of sundries received from S. B. Mary Foley, re-shipped from wreck of Mr. J. M. Coffman's flat-boat and sold for his acc.

1853.

Dec. 27.	137 bbls.	flour,	damaged,	@ 4 50,	$561	70	
	3 do	"	"	@ 3 15,	15	45	
	302 do	apples,	"	@ 1 80,	543	60	
	47 do	potatoes,	"	@ 1 85,	86	95	
	81 do	"	"	@ 1 55,	125	55	
	9 do	cider,	"		35	05	
	1 do	whiskey,	"	38 gall. 22½,	8	55	
	580						$1,376 85

Charges.

To paid f'g't M. Foley,		247	50	
" " do do		42	50	
" " do advertising,		6	00	
" " do labor,			75	
" State duty and auc. com's,		41	28	
Com'n on sale,		33	22	
				371 25
Nett sale,				$1,005 60

New Orleans, Dec. 28th, 1853.

C C.

The undersigned Commission merchants and dealers in western produce have, at the request of Messrs. Joseph Landis & Co., examined one hundred and thirty-seven (137) barrels of flour, three hundred and two barrels of apples, forty-seven barrels of potatoes, one barrel of whiskey, and eight barrels of cider, represented to us as having been taken from the wreck of a flat-boat from Gallipolis, Ohio, and landed at this port by the steamer "Mary Foley;" we find said property badly damaged by water, and rolling through the mud, and remove, as the best method to obtain its full market value, that it be sold at public auction, for the benefit of whom it may concern; we also state, if in sound condition, the wholesale market value this day of the said flour, apples, potatoes, and cider would be respectively, six three, two, and four and a half dollars per barrel, and the whiskey twenty-four cents per gallon.

New Orleans, December 24th, 1853.

(Signed) JNO. FOX,
of SAM'L CONOLLY & CO.
J. EAGER, of
J. EAGER & CO.

U. STATES DISTRICT COURT:

In Admiralty.

JAMES M. & CYRUS COFFMAN
vs.
STEAMER "GIPSEY."

Exceptions of Claim'ts to Ad'y by Report. Mar. 10th, 1855.

The claimant in the above suit, through their counsel, now comes into Court and files the following exceptions to the Commissioner Report, filed March 8th, 1855.

1st. That said report is erroneous in this, that it assesses damages in favor of libellants in a sum greater than that demanded by said libellants in their said libel. The gross amount claimed by them being $4,525 00, subject to a credit for the sale of the cargo taken out of the flat-boat in a damaged state; and the gross amount allowed by said Commissioner being $4,570 25, subject to the credit above mentioned.

2d. The Report is further excepted to because the testimony of Richard Burnett, Jos. G. Blaze, H'y O'Neal, Charles Weibert, Hamilton Hay, and Sam'l Rothgele is indefinite and does not fix the number of barrels, or the amount of cargo with any certainty. They testify to the number of barrels on board the flat-boat at Gallipolis and below at other landings, not from their actual knowledge by counting the number, but from casual observation of the bulk, using the uncertain phrase "about" so much; that the Report is therefore not sustained by their evidence.

3d. Because the Report is founded chiefly on the testimony of S. C. O. Byrne, which testimony should be received with great doubt and distrust for reasons apparent on the face of the depositions, among which are 1st, the extreme accuracy with which he testifies to every matter embraced by the libel, the exact number of barrels on board, the exact number sold, the precise amount of money on board, all which is much more than a mere hand on the boat could be reasonably presumed to know.

4th. That the Commissioner is not justified in assessing the highest number of barrels testified to by witness, when there is doubt or uncertainty as to the precise number; that on a fair and just consideration of the evidence on file the amount of damages will be found to be at about two thousand dollars less than that which is assessed by his Report.

Wherefore, claimants pray that the Court will either make such amendment as it may deem necessary, under the evidence, or refer that report back for review.

(Signed) MILES TAYLOR, H. H. TAYLOR,
Proctors for Claimant.

UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

In Admiralty.

Stated Sessions: February Term, 1855, Tuesday, March 13th. The Court met at 10 A. M.; Present, Hon. Theo. H. McCaleb.

JAS. M. AND C. COFFMAN,
Owners of Flat-boat and Cargo,
vs.
STEAMER GIPSEY. } Hearing of Report.

The Admiralty Commissioner's report being fixed for to-day, and the claimants having filed exceptions thereto, the proctors not appearing, it is ordered that the hearing of said exceptions be continued until Friday, 16th, 10 A. M.

JAS. M. & C. COFFMAN
vs.
STEAMER "GIPSEY."

Friday, March 16. Present, E. H. Bradford, Esq., for libellants, H. H. Taylor, Esq., for claimants.

The exceptions herein filed by said claimants to the Ad'y Commissioner's Report, together with the Report itself, were this day submitted by consent and taken under advisement.

UNITED STATES DISTRICT COURT,

February Term, Stated Sessions, Wednesday, March 21st, 1855. The Court having met: Present, Hon. Theo. H. McCaleb.

JAS. M. & CYRUS COFFMAN
vs.
STEAMER "GIPSEY," &c. } Final Decree.

The Court having examined and considered the report of damages herein submitted, and the claimants' exceptions thereto, and being satisfied that that item of the said report, assessing the value of the cargo on board of the flat-boat at the time of the collision at $2,500 50, must be reduced to the amount claimed therefor in the libel, to wit, to the sum of $2,300, but that the conclusions of the Admiralty Commissioner are in all other respects correct:

It is now ordered that the 2d, 3d, and 4th grounds of exceptions to be overruled, and that the report, as herein amended, be adopted as the judgment of the Court.

And now, considering the law and the facts of the case as heretofore adjudged by the Court, and it appearing of record that the steamer "Gipsey," &c., on which the libellants, at the time of the service of process herein, had a lien and privilege for the satisfac-

tion of the damages by them sustained in consequence of collision, was released from seizure on a bond or Admiralty and stipulation in the sum of $9050 00, executed by James Hamilton Ure, sole owner and claimant of said boat, and Saml. Locke and Robt. Splain, of New Orleans, sureties thereon, which said bond stipulated that the said claimant and sureties should jointly and severally abide the decree of the Court in this cause:

It is now ordered, adjudged and decreed, that, in favor of said libellants, Jas. M. and Cyrus Coffman, there *there* be judgment against the said James Hamilton Ure, Samuel Locke and Robt. Splain, jointly and severally, for the full sum of three thousand four hundred and sixteen and $\frac{15}{100}$ dollars ($3,416 15), with 5 ℘ interest thereon from the 24th day of December, A. D. 1853, until paid, and costs of suit to be taxed by the Clerk.

UNITED STATES DISTRICT COURT,
Eastern District of Louisiana.

In Admiralty. No. 6903.

Stated Sessions, February Term, 1855, Monday, April 2d, 1855. The Court met at 10 A. M.: Present, Hon. Theo. H. McCaleb.

JAS. M. & CYRUS COFFMAN
vs.
STEAMER "GIPSEY," &c. } Appeal.

On motion of M. and H. H. Taylor, Esq., Proctors for the claimant, and on their exhibiting to the Court the Appeal Bond in the sum $5,500 00, executed by said claimant, and Robt. Splain and Samuel Locke as sureties: It is ordered that said claimant have and be allowed an appeal from the final decree rendered in this cause on the 21st of March last, to operate as a *supersedeas*, and returnable to the next Term of the Circuit Court of the United States for this District.

UNITED STATES DISTRICT COURT,
Eastern District of Louisiana:

In Admiralty.

J. M. & C. COFFMAN
vs.
STEAMER "GIPSEY." } No. 6903.

Appeal Bond, Ap'l 2d, 1855.

Know all men by these presents, That we, James Hamilton Ure, owner of the steamer "Gipsey," as principal, and Robt. Splain and Samuel Locke, of New Orleans, as sureties, are held and firmly bound unto J. M. and C. Coffman, libellants, in the full sum of five thousand five hundred dollars ($5,500), lawful money of the United

States, for the payment whereof, well and truly to be made, we do bind ourselves, our heirs, executors and administrators or assigns, jointly and severally, firmly by the presents.

Dated at New Orleans, and by us signed this second day of April, Anno Domini 1855.

Whereas, the said James Hamilton Ure, owner of the steamer "Gipsey," has appealed from a decree of said District Court, rendered on the 21st day of March, A. D. 1855, in a case wherein the said J. M. and C. Coffman are libellants, and the said James Hamilton Ure is claimant, and his said appeal is returnable to the next Term of the Circuit Court of the United States for the 5th Circuit and Eastern District of Louisiana:

Now the condition of the above obligation is such, that if the said James Hamilton Ure, appellant, shall prosecute his appeal with effect, and pay all such damages, costs, and expenses as shall be awarded against him, as such appellant therein, then this obligation to be void, otherwise to remain in full force and virtue.

(Signed) JAMES H. URE,
(Signed) ROBT. SPLAIN,
(Signed) SAMUEL LOCKE.

Finis.

U. S. DISTRICT COURT,
East. Dist. of Louisiana.

CLERK'S OFFICE, NEW ORLEANS.

I, N. R. Jennings, Clerk of s'd Court, do hereby certify that the foregoing 128 pages manuscript so numbered, contain and form a true, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and record in a certain cause in Admiralty, wherein Jas. M. and Cyrus Coffman are libellants, and Jas. H. Ure, claimant of the steamer "Gipsey," libelled, is respondent, No. 6903 of the Docket of said Court.

In testimony whereof I hereto set my seal, and affix the seal of said Court, at New Orleans, this 23d day of April, A. D. 1855, and 79th year of American Independence.

[SEAL.] N. R. JENNINGS,
Clerk.

by ROBT. M. LUSHER,
D'y Clerk.

Proceedings in the Circuit Court.

Minutes, April Term, 1855. New Orleans, 24th April, 1855. Present, Hon. J. A. Campbell, Presiding Judge.

J. M. & C. COFFMAN
vs.
STEAMER GIPSEY. } 2481.

This cause was taken up for trial, and argued by J. P. Benjamin, Esq. for libellants, and by Miles Taylor, Esq. for respondent, and was submitted to the Court and taken under advisement.

Final Decree. Rendered 30th April, 1855.

New Orleans, Thursday, 26th April, 1855. Present, Hon. J. A. Campbell, Presiding Judge.

JAMES M. & C. COFFMAN,
Owners of Flat-boat and Cargo, Appellees,
vs.
STEAMER GIPSEY, J. H. Ure, Clm't. } No. 2481.

April Term, 1855.

This cause came on to be heard at this term, on the transcript of the record from the District Court of the United States for the Eastern District of Louisiana, and was argued by counsel; on consideration whereof it is now ordered, adjudged, and decreed that the decree of the said District Court be affirmed, and that the libellants, James M. Coffman and Cyrus Coffman, do have and recover judgment against the claimant, James Hamilton Ure, and against Samuel Locke and Robert Splain, the sureties, upon the stipulation, *in solido*, for the sum of three thousand four hundred and sixteen dollars and fifteen cents, with interest thereon at the rate of five per cent. per annum from the 24 December, 1853, until paid, and for costs of suit.

Decree rendered 26th April, 1855.

" signed 30th April, 1855.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

Opinion delivered by Hon. J. A. Campbell, 26 April, 1855.

J. M. & C. COFFMAN
vs.
STEAMER GIPSEY. } No. 2481.

The libellee excuses herself for having come in collision with the flat-boat of the libellants, because it happened in a dark and rainy night, at a place on the river where steamboats are accustomed to land and lie; that the flat-boat was moored close in a nook of a caving bank, in the immediate vicinity of a wood-yard, where there was a fire, the light from which fell upon the water at some distance from the bank, and so deepening its shade in which the

flat-boat was, that the persons on the look-out in the steamboat could not possibly discern her; that she carried no light, nor had any watchman to give notice to approaching vessels of her position or presence. If the libellee had shown that she attempted to land at the wood-yard, and had given the usual signals of her approach, and had eased her engines, opened her fire doors, had lights forward, and under these circumstances, in a dark and gusty night, if the disaster had been produced, the case would have appealed strongly to the favorable consideration of the Court.

But the libellee did not land at the wood-yard, and had no intention of doing so. She approached the bank without the use of any signal, and without any precaution to guard against casualties. She was not in her proper place. I concur with the Judge of the District Court in his views of the evidence, and refer to the cases in this Court, of Brown *vs.* The Gipsey, and Culbertson *vs.* The Southern Belle, for my views of the law in such cases.

The decree of the District Court is affirmed.

Petition of Appeal. Filed 3d May, 1855.

The petition of James H. Ure, claimant of the Steamer Gipsey, respectfully shows, That a final decree was rendered in this Court against him, in said suit, on the 26th April last, and signed on the 30th of the same month; that he is informed and believes there is error in said judgment, whereby he is greatly aggrieved:

Wherefore petitioner prays that an appeal be granted therein to the Supreme Court of the United States, returnable the first Monday in December next, on giving bond and security according to law, and that libellants be duly notified thereof.

MILES TAYLOR & H. H. TAYLOR.

Minutes. April Term, 1855. New Orleans, Thursday, 3d May, 1855:

Present Hon. J. A. Campbell, Presiding Judge.

JAMES M. & C. COFFMAN vs. STEAMER GIPSEY, JAMES H. URE, Claimant. } No. 2481. Order of Appeal.

On motion of Messrs. Miles & H. H. Taylor, Proctors for respondent, and on presenting and filing the petition of said respondent, praying an appeal to the next term of the Supreme Court of the United States, from the decree herein rendered against him on the 26th of April last, it is ordered that an appeal be allowed as prayed for, and that the same operate as a *supersedeas* upon respondent's giving bond, with good and solvent security, conditioned according to law, in the penal sum of six thousand five hundred dollars.

Appeal Bond. Filed 3d May, 1855.

Know all men by these presents, that we, James H. Ure, as principal, and Samuel Locke and Robert Splain, as sureties, are held and firmly bound, jointly and severally, unto James M. & Cyrus Coffman, in the sum of six thousand five hundred dollars, lawful money of the United States of America, to be paid to the said James M. & Cyrus Coffman, their heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us, by himself, and each of our heirs, executors, administrators, firmly by these presents. Sealed with our seals, and dated the third day of May, A. D. 1855.

Whereas, the said James H. Ure has this day presented a petition to the Hon. the Circuit Court of the United States for the 5th Circuit, holding sessions in and for the Eastern District of Louisiana, praying for an appeal to the Supreme Court of the United States, from a final decree rendered in a suit wherein James M. & Cyrus Coffman are libellants and appellees, and Steamer "Gipsey," James H. Ure, claimant and appellant, from the U. S. District Court for said District, No. 2481 of the docket of the said Circuit Court aforesaid, which said final decree was rendered by said Circuit Court, on the 26th April, and signed on the 30th day of April, 1855. Now the condition of the above obligation is that we, the above bounden James H. Ure, and Samuel Locke, and Robert Splain, shall prosecute this appeal, and will well and truly pay to the said James M. & Cyrus Coffman, libellants herein, the amount of such judgment, as may be obtained against him in said suit, in case he should be cast in this appeal.

JAMES H. URE. [SEAL.]
SAMUEL LOCKE. [SEAL.]
ROBERT SPLAIN. [SEAL.]

Signed, sealed and delivered in presence of
SAMUEL C. J. PARKER,
WILLIAM VOLCKMANN.

Approved in open Court.

J. A. CAMPBELL,
Judge, &c.

UNITED STATES OF AMERICA,
Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, John W. Gurley, Clerk of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, do hereby certify, that the foregoing 135 pages contain and form a full,